

July 2011

maine townsman

The Magazine of the Maine Municipal Association



**125th LEGISLATIVE SESSION:
What's Your Impression?**

ALSO IN THIS ISSUE:

Legislative Overview | New Laws | Roy Gardner of Allagash | 2011 MMA Convention Details

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Magazine Staff:

Eric Conrad, Editor
econrad@memun.org

Valarie Pomerleau, Circulation Manager
Jaime G. Clark, Graphic Designer

MMA website: www.memun.org

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The Magazine of the Maine Municipal Association

Active on the Legislative Front

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Many bills introduced in the Legislature each session affect municipalities. MMA Executive Director Christopher Lockwood writes about this and how MMA's Legislative Policy Committee helps to establish municipal legislative priorities.

What Did You See This Session?

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The interests of municipal government were given strong consideration during the recent legislative session, to the surprise of some. Groundbreaking policy changes were not in the cards but overall, municipal government was treated thoughtfully and respectfully by Maine lawmakers.

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Here is where you will find a recap of MMA's legislative priorities and how they fared. Overall, major changes did not happen. Rather, the 125th Session was one in which the Legislature was more receptive to smaller, more technical and ministerial advancements.

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COVER: With a slight alteration to include the outlines of the Maine State House, the cover depicts the tenth and final plate of the famous psychological test developed in 1921 by Dr. Hermann Rorschach. The Rorschach test is designed to identify personality profiles on the basis of what the test subjects "see" when reviewing a randomly generated ink blot. The cover was chosen by the State & Federal Relations staff.



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A Message From MMA



by Christopher Lockwood, Executive Director

An Extensive Legislative Portfolio

This issue of the *Maine Townsman* provides a detailed recap of the recently concluded legislative session. Advocacy of municipal government interests is a fundamental component of Maine Municipal Association's mission and was the driving force in MMA's formation 75 years ago.

With over a third of the 1,600 bills introduced during this legislative session having had the potential to affect municipal governments in some manner, positively or negatively, Maine's towns and cities once again carried one of the most extensive legislative portfolios of any organization or group doing business at the State House, short of State government itself. Our collective success relies upon a strong team effort.

MMA's 70-member Legislative Policy Committee (LPC) is a key part of this effort. I've often been asked how a 70-member committee could possibly function, let alone determine MMA's positions and priorities on such a broad array of legislative proposals. In fact, not only does the LPC work well, it is an extremely effective body which provides a forum for thoughtful and respectful dialogue among elected and appointed officials from a broad cross section of MMA's membership.

With two municipal officials elected to the LPC from each of Maine's 35 State Senate Districts, the LPC is in a way a microcosm of the State Legislature. LPC members come from communities of all sizes from across the state. Members include: selectmen; mayors and councilors; town and city managers; finance directors; an assistant city solicitor; clerks; and, various other municipal positions. On any given issue, it is fascinating to hear the observations from members of the LPC and to observe

the deliberative process of mapping out an appropriate position. Members of the LPC take their responsibilities seriously, but they also value the opportunity to interact with municipal officials from other communities and discuss public policy issues. It's truly remarkable to witness a 70-member committee so effectively and efficiently consider such a large number of bills on an expansive number of issues.

MMA's "advocacy team" is also composed of hundreds of municipal officials across the state, who contact their local legislators on issues of concern. While MMA's State & Federal Relations staff members work diligently to track legislation and advocate the positions established by the LPC, the most meaningful contact for legislators is to hear directly from municipal officials in their home districts. We appreciate and value the responsiveness of members to action alerts and Legislative Bulletin articles. Your contacts clearly made the difference on a number of important issues this session.

We hope you find this legislative wrap-up issue of the *Townsman* helpful. I want to thank Geoff Herman, Kate Dufour, Greg Connors and Laura Veilleux of our State & Federal Relations department for their untiring efforts throughout the session. Also, thanks to Jaime Clark, Graphic Designer in our Communications department, who

faithfully (even during a major snowstorm) made it to the office every Friday morning to ensure the Legislative Bulletin would get out on a timely basis.

Thanks also to members of the Legislative Policy Committee for their dedicated service and thanks to you, our members, for your support and dedication to the cause of effective municipal government. 



MMA's Legislative Policy Committee meeting in October 2010 to finalize the Association's 2011-2012 legislative agenda.

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Impressions of a Legislative Session

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

It was probably only natural, but partisan tensions hung palpably in the air during much of this legislative session, undoubtedly a product of a complete shift in power last November 2nd from a political system entirely controlled by the Democrats to one entirely controlled by the Republicans.

Break-out events surfaced on a regular basis. The enactment of a health insurance reform bill, the resurgence of a so-called “right to work” bill, legislation to end same-day voter registration, and the Committee work on a bill designed to abolish the Land Use Regulation Commission all triggered sharp partisan reactions. Mere low-country skirmishes, some thought, in advance of a Gettysburg-sized showdown over the adoption of a state budget for the FY 2012-2013 biennium.

But that didn’t happen. Even though the proposed budget marinated in strong controversy for five months, the adoption of the package re-crafted by the Legislature went smoothly.

Given the background environment, however, there may be a perception that this was an especially tough or rancorous legislative session for municipal government, or that the change in the Administration has created unusual challenges with respect to the interests of Maine’s towns and cities. Within MMA’s State and Federal Relations Department we have not made this observation. In contrast, it seems that the interests of municipal government have generally been given strong consideration during this legislative session. Groundbreaking public policy changes for the municipalities may not have been in the cards, but all things considered, local government was treated thoughtfully and with respect by Maine’s lawmakers.

Because of possible differences between perception and reality, the cover of this edition of the Maine Townsman presents a slightly adulterated version of the tenth and final card of the famous Rorschach ink blot test. After reviewing all the final decisions that were made by this legislative assembly, you are invited to read into the final package of public policy changes whatever image you perceive.

During last fall, when MMA’s 70-member Legislative Policy Committee (LPC) was developing the Association’s legislative agenda for the 2011-2012 biennium, there was an understanding among municipal officials that the approach to legislation in this environment should focus on having realistic goals and improving programmatic accountability, with a potential, perhaps, to find some relief from unnecessary state mandates. For the state’s town and city leaders, it was obviously not an economic or political environment where the municipalities might expect to see major breakthroughs in such areas as comprehensive tax reform or full funding for K-12 education.

It turns out that such foreshadowing was right on point. No substantial progress was made with regard to the big-ticket municipal issues over the last six months, such as securing structural property tax relief, providing a sustainable system of financing Maine’s highway and bridges, or taking an unblinking look at property tax exemptions. A companion article displays the scorecard on MMA’s 16-bill legislative agenda, which confirms that only the smaller-scale initiatives made it through the process.

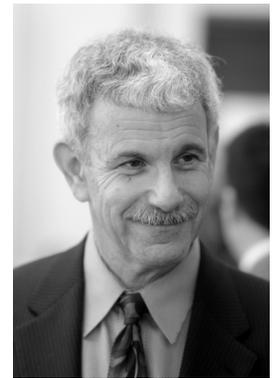
Beyond the municipally-sponsored legislation that was delayed or rejected, there were a few deeper disappoint-

ments in this legislative session in the areas of revenue sharing and an apparent manipulation of the state’s “55%” school funding obligation. Another companion article provides an explanation of these concerns.

As to the broad range of municipal legislation that was ultimately enacted, however, the balance reflects the efforts of a Legislature that clearly recognizes the important role played by the towns and cities in the intergovernmental system.

As is historically the case, over 30% of the of bills submitted to the Legislature involved municipal government in some way and were therefore “tracked” by our Policy Committee. During this legislative session, 556 of the 1,588 printed bills fell into the “track” category. Because roughly half of the tracked bills were of significant municipal impact, they were carefully reviewed by the LPC, which adopted a specific position on each. Most of those 260 bills did not make it through the process. The pages that follow detail the municipally-related bills that did survive.

A careful reading of the final en-



Senator Roger Katz (Kennebec County) sponsored LD 578, the firearms bill, on behalf of MMA. In his Senate floor speech, which garnered majority support in that chamber, Sen. Katz passionately stated that local legislative bodies were just as capable as the Legislature to make community-appropriate public safety decisions.

actments, particularly with an understanding of how the bills were originally presented to the Legislature, shows that almost all the legislative committees listened carefully, were open to municipal input, and acted thoughtfully with respect to the final product.

Examples abound.

In the Taxation Committee, a long list of bills strongly opposed by the Association's Legislative Policy Committee were summarily killed-off by the tax panel. The threat to motor vehicle excise tax collections proved unfounded, and it was the Taxation Committee that led the charge against an initial proposal by Governor LePage to abolish the structure of municipal revenue sharing program as it has been operating over the last 40 years.

In the Education Committee, the only bill of focused municipal opposition that got out of Committee would allow municipalities to pay for religious education, opening up the potential for an entirely new financial exposure for the towns and cities. That bill was rejected in both legislative chambers.

In the Environment and Natural Resources Committee, the greatest care was used to move forward on the "culvert" issue in a balanced and fair manner, avoid wholesale changes to the shoreland zoning law in favor of targeted amendments tailored to the specific issue of concern (shoreland bird wading areas), and reject changes to Maine's bottle bill law that would negatively impact municipal recycling operations.



Senator Tom Saviello, as Senate Chair of the Environment and Natural Resources (ENR) Committee, was instrumental in moving MUBEC forward by sponsoring MMA's "fix-up" bill, LD 1253. Sen. Saviello also skillfully ushered through a "culvert" bill (LD 1356) that local government was able to support, and was always sensitive to the impact various bills presented to the ENR Committee would have on Maine's towns and cities.

On the proactive side, this Legislature's first bill of the ses-

sion – "LD 1" – expanded the municipal "delegation" authority both with respect to large-scale development review for the "life safety code" as well as for the inspection and licensing of smaller-scale retail operations. The delegation system is a way for towns and cities, on a strictly voluntary basis, to provide certain services to local business constituents that are otherwise provided by state agencies. MMA's bill to "fix-up" the state's uniform building code system (MUBEC) was adopted

almost verbatim, and additionally used as the vehicle bill to include other "fix-up" amendments as well.

From snow dumps to boiler inspections to the use of the "InforME" system to backing off the mandatory use of the "Informed Growth Act", advancements were made to relax, rescind or at least better rationalize state mandates or other problematic intergovernmental nuisances.

In some other cases, the positive legislation action lies not so much in

Municipal Ordinance Review Checklist

There were several enactments during this legislative session that will trigger potential ordinance adoptions or amendments at the municipal level. Here's a short list:

Fireworks. The elected municipal leaders in each community will have to decide what recommendations, if any, to put before their legislative bodies with respect to regulating the sale and use of commercially-available fireworks. Please refer to the description of LD 83 which is found under the Criminal Justice and Public Safety section in the *New Laws* article.

Subdivision Ordinances. Current law requires a person to file an approved subdivision plan in the registry of deeds within 90 days of approval, and many municipal ordinances require the filing to occur in a shorter period of time. A law was enacted this session which allows a person at least 90 days to file an approved subdivision plan. The former maximum period of time to file an approved subdivision plan has now become the minimum. Municipal managers, selectmen, planners and planning board members should review their current subdivision ordinances to see whether local standards should be amended to conform to this new law. See the description of LD 1460, which is found under the State and Local Government section of the *New Laws* article.

The Maine Uniform Building and Energy Code (MUBEC). A full description is provided in the *Disappointments* article and its sidebar about the conflicts between two separate enactments regarding the MUBEC system as enacted in 2008. The changes to that system created by LD 1416 will require the careful review by the appropriate municipal officials in all towns and cities with populations at or below 4,000. Some of those municipalities may need to formally adopt the MUBEC building and/or MUBEC energy codes by September 28, 2011 in order to seamlessly continue the enforcement of that code in those communities.

Wading Bird Habitat and Shoreland Zoning Ordinances. A description of LD 159 is found in the Environment and Natural Resources Committee section of the *New Laws* article. As a result of the work done by the Committee on the general subject of coordinating several environmental laws, a letter has been sent by the Committee to the Commissioner of the Department of Environmental Protection (DEP) asking for changes to the State's Minimum Shoreland Zoning Guidelines that will allow municipalities to reconsider the type of shoreland zoning district to establish adjacent to wading bird wetland habitats. Current law requires those areas to be zoned as "resource protection", requiring a 250 foot no-development buffer strip. The direction to the DEP is to amend the minimum shoreland zoning guidelines in such a way that those areas can be re-designated as another type of shoreland zoning district, such as "limited residential", if that would be preferable to the town or city's legislative body. Municipalities will have to wait for the DEP to promulgate the revised minimum guidelines before adopting any revised shoreland zoning ordinances, but any pre-adoption planning procedures (e.g., preliminary review, public information sessions, etc.) could begin at the local level any time.

Informed Growth Act. LD 322, which is described under the State and Local Government section of the *New Laws* article, converts the Informed Growth Act from a land use review system governing "big box" development that must occur throughout Maine as a matter of state law to a system that may occur on the municipal level if the municipality wishes to adopt that system by reference under its home rule authority. Municipal officials, planners and planning board members should be aware of this new option.



Assistant Minority Leader in the House, Representative Terry Hayes (Buckfield), once again agreed to sponsor the Association's legal notice publication bill (LD 392) which would allow municipalities a more substantively effective and cost effective way to provide legal notices. MMA greatly appreciates Rep. Hayes' tireless support for public policy changes that make the work of government more efficient.

what legislation was enacted but in what legislation was deferred from immediate enactment to allow more time for study and thoughtful amendment. The most obvious example from the municipal perspective is the decision to "carry over" a bill that would place extraordinary demands on local government to respond to most "Right to Know" requests for documents "immediately" and by providing the re-

quested documents in the precise form and format as requested. The Legislature instructed the balanced "Right to Know Advisory Committee" to review that legislation and make some reasonable recommendations. Other go-more-slowly approaches were taken with respect to the proposal to establish a government-funded compensation system for "regulatory takings", as well as a proposal to abolish the Land Use Regulatory Commission and give over all land use regulatory authority in the unorganized territory to the respective boards of county commissioners.

The following pages will detail all the examples. It should be enough

to say that the powers in Augusta this year were very responsive to municipal concerns when expressed, genuinely interested in coordinating functions with local government more closely, and extremely reticent to enact any unwelcome state mandates.

Change can be unnerving and appearances can be deceiving, but given the larger economic and political environment of the nation and this region, the actions of the 125th Legislature can be fittingly characterized as generally positive for Maine's towns and cities, at least that's our impression. After reading the rest of this wrap-up edition of the Maine Townsman, we are inviting you to form your own. [mt](#)



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Disappointments

This review of the First Session of the 125th Legislature should not be construed to suggest that there are no disappointments from the municipal perspective. Some of those disappointments are to be expected, such as when lawmakers reject legislative proposals advanced on the municipalities' behalf. The deeper disappointments are felt when longstanding commitments are dishonored, progress toward fulfilling established goals goes stagnant or runs backwards, or previous public policy priorities are abandoned so quickly that the towns and cities charged with implementing those policies get caught in a crossfire. There are three examples.

Municipal Revenue Sharing. This Administration and Legislature has thus far continued the practice started by the immediately previous Administration and Legislature to implement 30% reductions to the municipal revenue sharing program in order to pay for higher priorities in the state budget than property tax relief. For forty years the municipal revenue sharing program has been a centerpiece of the state-local relationship with only a single legislative "raid" in the early 1990s.

Suddenly, starting in 2009, significant annual raids of the municipal revenue sharing program have become the norm. \$64 million was stripped out of municipal revenue sharing over the last biennium, \$84 million will be stripped out the property tax relief program over the next two years. The Legislature seems to have taken the position that grossly decreased revenue sharing distributions are the new "baseline".

"55%" School Funding. The budget bill enacted by the Legislature redefines the term "Total Cost of Funding

Public Education from Kindergarten to Grade 12" to include the state's premium payment for teachers' retirement, which for FY 2012 is \$173 million. There is no short-term effect of this redefinition with respect to the distribution of General Purpose Aid to Education school subsidy because this

change in definition does not fold the state's teacher retirement premium into the Essential Programs and Services school funding model, and therefore does not effectively obligate the school systems to financially participate in the premium payment.

What this change in definition is more likely to impact is how the Legislature calculates its obligation to provide 55% of the total cost of K-12 education. In 2004, the voters of Maine adopted a citizens' initiative that directed the Legislature as follows:

"Notwithstanding any other provision of law, the Legislature each year shall provide at least 55% of the cost of the total allocation for kindergarten to grade 12 education from General Fund revenue sources."

The initiative then went on to define that term in a specific way that does not include the teacher retirement premium.

In contrast, the new language in the budget document expressly defines the "Total Cost of Funding Public Education From Kindergarten to Grade 12" to include the state's teacher retirement premium payments, which appears to be a clear step toward folding teacher retirement into the state's "55% of total cost" obligation, with disregard for the technical complexities of EPS, and in spite of the wording of the citizen initiative adopted by the



Representative Alan Casavant (Biddeford) deserves credit for his dedication to two agent fee increase bills sponsored on behalf of the Maine Municipal Tax Collectors' and Treasurers' Association. In an anti-fee increase environment, Rep. Casavant unapologetically argued for an overdue increase to the fees collected by municipalities from users directly benefiting from the provision of locally-based hunting and fishing licensing (LD 289) and recreational vehicle registration (LD 288) services.

voters seven years ago.

That point was recently driven home by the Department of Education itself. Although some legislators wanted to stress the point that their redefinition of the "Total Cost" of K-12 education had no effect whatsoever on the state's obligation to pay 55% of the Essential Programs and Services school funding model, a spokesperson for the Department of Education reported to the Bangor Daily News that the Legislature's action has the direct effect of including the retirement premiums as part of the "55%" obligation, and instantaneously shaving four percentage points off the goal established by the voters.

Notwithstanding the Department of Education's interpretation, for now, at least, the redefinition of the "Total Cost" of K-12 education has not affected the defined cost of K-12 education as established by the EPS school funding model, so the "55%" requirement remains intact statutorily. With that said, it is becoming increasingly more difficult to actually find the state's obligation, as established by the voters, in Maine's law books.

Turning on a dime. The last disappointment is less disappointment and more of a going-forward request.

Municipal officials recognize that public policy needs to be changed from time to time and resisting the well-intentioned redirection of public policy merely for the sake of avoiding change is not conducive to progress and growth. Having said that, there are ways to redirect public policy without leaving those charged with administering the various policies breathless,



Representatives Meredith Strang Burgess (Cumberland) and Andre Cushing, III (Hampden) each sponsored legislation seeking to build more client-based accountability into the General Assistance program. Although neither bill was enacted, municipal officials greatly appreciate their combined efforts to move this issue forward.

confused and in some circumstances demoralized.

The school consolidation laws were controversial from the start, but people on the local level spent thousands upon thousands of hours wrestling with the demands of that law and making decisions on the basis of the public policy directives enacted by the previous two Legislatures. For better or for worse, those previous policy directives have now effectively been erased by this Legislature. Hundreds of school consolidation decisions made just two years ago have now lost their grounding. It is frustrating to spend so much effort and resources responding to a legislatively mandated policy direction, such as school consolidation, only to be told “never mind” after all that effort.

Similarly, the building code law, known as “MUBEC”, which went into effect just seven months ago, is now going out of effect, at least initially, in approximately 375 municipalities containing about 30% of the state’s population. This was a particularly rough public policy transition (see sidebar on page 12). Oversight of building code enforcement is a municipal function. Wholesale changes in the administration of that responsibility should be more thoughtfully implemented. **mt**

Here are the numbers:

Under current law, and under the rules of the 55% calculation as adopted by the voters, the state will be providing 45% of the total cost of K-12 education in FY 2012.

Total Cost (i.e., EPS at 100%):	\$1,978,790,109
Local Share (i.e., local required share at 100% EPS)	\$1,084,190,109 (55%)
State Share (i.e., GPA appropriation)	\$894,600,000 (45%)

Under the new definition of the “total cost” that is in the proposed budget, the state will be providing 49% of the total cost of K-12 education in FY 2012.

Total Cost (i.e., EPS at 100% <u>plus</u> teacher retirement):	\$2,151,382,957
Local Share (i.e., local required share at 100% EPS)	\$1,084,190,109 (51%)
State Share (i.e., GPA <u>plus</u> teacher retirement)	\$1,067,192,848 (49%)



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Reconciling the 2011 Amendments to the MUBEC Code

Introduction. The Maine Uniform Building and Energy Code (MUBEC), as enacted into law in 2008 and amended for clarification in 2009, was further amended during this legislative session by two separate bills, LD 1253 and LD 1416. The two bills amend the MUBEC statutes in very different ways. Generally, LD 1253 can be described as a bill making technical and minor substantive changes to the existing MUBEC laws. In contrast, LD 1416 fundamentally changes the statewide applicability of MUBEC and how it is implemented and enforced on the local level. What follows are the descriptions of five areas of conflict between the two enactments that could cause confusion on the municipal level with respect to how the MUBEC code should now be implemented.

Background information. As a matter of existing law, the MUBEC code went into effect throughout the state on December 1, 2010. MUBEC is the currently effective building code statewide regardless of whether it is being enforced at the municipal level. Current law provides that all municipalities over 2,000 in population that had a building code in place prior to the enactment of MUBEC must be enforcing the MUBEC code as of December 1, 2010. All municipalities over 2,000 in population that did not have a building code in effect are given until July 1, 2012 to begin enforcing the MUBEC code under current law. No municipality at or below 2,000 in population is obligated to enforce MUBEC, although the code remains in effect in those communities with the burden of compliance falling on the owner/builder. No municipality under current law actually “adopts” the MUBEC code as other ordinances might be adopted. In fact, current law makes all building code ordinances void unless exactly the MUBEC code. Municipalities are authorized to adopt ordinances governing the enforcement of the code (e.g., fee structure, application procedures, appeal process, etc.), but not the code directly. Total control over the content of the code is given to the MUBEC Technical Building Code and Standards Board.

For point of reference, there are 325 municipalities in Maine with populations under 2,000, representing an aggregate population of 247,000 (19% of the state’s population). There are 81 municipalities in Maine with populations between 2,000 and 4,000, representing an aggregate population of 229,000 (17.5%). There are 86 municipalities with populations over 4,000, representing an aggregate population of 833,000 (63.5%).

The changes to the MUBEC code brought about by the enactment of LD 1253 and LD 1416 will go into effect September 28, 2011.

Issues of conflict between LD 1416 and LD 1253.

1. Issuance of occupancy permits. One element of LD 1416 changes the population threshold triggering obligatory enforcement of MUBEC from 2,001 to 4,001, and further stipulates that in a municipality of 4,000 or less that does not choose to “adopt” MUBEC, the building code does not exist. This change affects the decisions that have to be made by 81 municipalities to either enforce MUBEC or not enforce the code.

Left untouched by this element of LD 1416 is a provision in current law, amended by LD 1253, that expressly requires all municipalities over 2,000 in population to issue a permit prior to occupancy of all newly built structures only if those structures were built according to the MUBEC code (see 25 MRSA, Section 2357-A, as amended by LD 1253 and contrast with 10 MRSA, Section 9724, subsection 1-A, as enacted by LD 1416).

Therefore, when both LD 1253 and LD 1416 are engrossed into state law, the municipalities between 2,001 and 4,000 in population could be in the position of having no MUBEC code

while simultaneously required to issue occupancy permits only to structures that are built according to that code.

2. Building official certification to the code. Also untouched by LD 1416 is a provision in current law that requires all municipalities over 2,000 in population to appoint a “building official” fully certified in the MUBEC code (see 25 MRSA, Section 2351-A.) As noted above, this conflict requires up to 81 communities to retain a building official certified in a code that the municipality has not adopted and does not enforce.

3. Ordinance adoption requirements. Current MUBEC law does not require any municipality, regardless of size, to adopt the MUBEC code. What the law allows (but does not require) is the adoption of an enforcement ordinance, rather than the adoption of the actual code. An enforcement ordinance does not contain the actual code standards. The only authority to actually adopt the MUBEC code in current law is the Technical Building Code and Standards Board.

There are currently a number of communities of 2,000 or less in population that are voluntarily enforcing the MUBEC code through the adoption of an enforcement ordinance. It appears that those communities will now be required by the terms of LD 1416 to actually adopt the MUBEC code if they wish to continue the practice of applying a building code.

There are also a number of communities between 2,001 and 4,000 that are enforcing the MUBEC code because they had a building code in place prior to the enactment of MUBEC. Those municipalities probably have not adopted any special ordinances related to MUBEC because they already had administrative code procedures on the books. It appears that those municipalities will now be required by LD 1416 to formally adopt the MUBEC code assuming they wish to continue their current practice.

4. Ordinance voiding statute. LD 1416 establishes two versions of the MUBEC code that can be adopted by those municipalities of 4,000 or less in population that wish to have such a code, both of which are parts of the “mother” MUBEC code. One version is the Maine Uniform Building Code and the other version is the Maine Uniform Energy Code. Although LD 1416 authorizes the adoption of each child (or both) of the “mother” MUBEC code, no change was made to the statute that voids any ordinance adopted at the municipal level that is not the “mother” MUBEC code (see 10 MRSA Section 9724(3)). A straightforward conflict in statute.

5. Appropriate municipal information-sharing between now and late September. Currently, municipalities fall into two general categories. The larger communities that were already enforcing national building codes have implemented MUBEC relatively seamlessly. Rather than implementing MUBEC, at least some smaller communities are trying to get the appropriate information about the statewide building code to the people in their communities that are starting building projects. Many smaller communities, for example, are informing their constituents about MUBEC, providing applicants for building permits with the list of local third party inspectors, etc.

What is the best information town officials should be telling their constituents, particularly if the town does not have the intention of formally adopting the MUBEC code? For example, if a new house is scheduled to be completed before October 1, should it be constructed according to MUBEC to protect its insurability, etc.? If a construction project has substantially begun but will not be completed until after October 1, does the current existence of the MUBEC code have any bearing on the construction standards for that building? Some transition language would be helpful when turning a code on and then off throughout a large geographical part of the state. [\[mc\]](#)

Scorecard on MMA's Legislative Agenda

During the late fall and early winter of 2010 the Association's 70-member Legislative Policy Committee (LPC) developed a package of 16 bills that it wished to see advanced to the Legislature this year. What follows is a brief description of each bill, the name of the legislator kind enough to sponsor the bill on the Association's behalf, a concise description of MMA's interest in advancing the legislation, and the bill's final outcome.

When measuring purely by the number of bills adopted or rejected, the success rate of the legislative agenda was about 50%. That success rate drops off sharply, however, if measuring in terms of substantive public policy advancements. The smaller, more technical and ministerial bills tended to be enacted this session. The more significant bills advanced by MMA in the areas of tax policy, revenue sharing protection and General Assistance did not even survive the committee process.

One of MMA's 16 bills (described below) was never formally presented to the Legislature because its sponsor resigned his Senate seat before the bill was assigned a public hearing. Of the 15 bills actually submitted:

- Seven were either enacted straight-up or enacted in an amended version where at least some progress on the issue is being made.
- Six were easily defeated, either killed at the committee level or rejected by both the House and Senate.
- Two were given the good fight, working their way out of committee on a split vote,



Representative Kathy Chase of Wells, a former tax assessor for that town, fights mightily for legislation she believes in. Rep. Chase signed onto a bill for MMA this year (LD 838) that would let each municipality, rather than the state, decide how much of the unreimbursed Homestead property tax exemption should be underwritten by the local taxpayers. The bill could not be advanced for technical reasons, otherwise Rep. Chase would surely have wrestled that issue to the ground.

supported by either the House or the Senate, but ultimately killed by the other chamber.

Revenue Sharing. LD 623, *An Act to Reestablish the Municipal Revenue Sharing Program as a Compact between the State and Municipal Governments*, sponsored by Sen. Tom Saviello of Franklin County.

MMA's revenue sharing bill attempted to give the municipal revenue sharing program better protection from legislative raids by establishing the fund to which revenue sharing resources are directed as an "irrevocable trust", in the same way certain other funds are protected in state law. **Killed in Committee**

Homestead Exemption. LD 838, *An Act to Make the Homestead Property Tax Exemption More Flexible for Municipalities and Remain Revenue Neutral for the State*, sponsored by Rep. Kathy Chase of Wells.

The LPC's bill amending the Homestead property tax exemption program would have made the unreimbursed part of the current Homestead exemption a local option. In other words, if the voters in the town wanted to retain the current \$10,000 Homestead exemption, with half of the exemption covered by state reimbursement and half the exemption covered by the property taxpayers, they would be entitled to do that. On the other hand, if the voters did not want to effectively finance the unreimbursed part of the Homestead exemption, they would be given that option. The bill was cited by Maine Revenue Services as a violation of the "equal as-

essment and apportionment" clause in Maine's Constitution. **Killed in Committee.**

Tax Exemptions. LD 238, *An Act to Limit the Vehicle Excise Tax Exemption Provided to Benevolent and Charitable Institutions and To Repeal the Exemption Provided to Literary and Scientific Institutions*, sponsored by Rep. Michael Celli of Brewer.



Ever since his election to the House of Representatives in November 2008, Rep. Michael Celli of Brewer has doggedly tried to address the taxation inequities associated with the overly generous property tax exemptions provided to the large "charitable" corporations. Rep. Celli was kind enough to sponsor a bill on that subject this year for MMA (LD 238).

As an extremely modest approach to the long-term municipal interest in challenging the justification for blanket tax exemptions provided to the so-called "charitable" and "literary and scientific" institutions, this bill would have merely restricted those institutions' access to the motor vehicle excise tax exemption they are also gratuitously provided. **Killed in Committee.**

Streamlined Sales Tax. LD 451, *Resolve, To Study Adoption of the Streamlined Sales and Use Tax Agreement*, sponsored by Rep. (now Senator) Cynthia Dill of Cape Elizabeth and Rep. Elsie Flemings of Bar Harbor.

Maine's municipal leaders have long been supporters of comprehensive tax reform to achieve three important goals: (1) fitting the state's 60 year old tax code to the modern economy; (2) creating a more stable state tax code that better weathers the fluctuating economic cycles; and (3) more equitably distributing the overall tax burden among Maine's three major taxes (income, sales and property). As a small and incremental step in that process, MMA supported this resolve directing Maine Revenue Services to develop the changes to the sales tax code that would need to be enacted in order for Maine to

participate in the nationwide Sales and Use Tax Streamlining project, all for the purpose of allowing the Taxation Committee to review that report and consider moving in that direction next year. **Defeated in Both Chambers Along Party Lines.**

State “Inspection” of Hot Water Boilers. LD 375, *An Act to Exempt Boilers in Municipalities and Schoolhouses from State Inspection Requirements*, sponsored by Rep. James Gillway of Searsport.

The printed bill would repeal an archaic requirement for municipalities and schools to have their boilers inspected by the State. No other businesses or places of public accommodation are required to have their normal-sized boilers undergo state inspections. The Committee turned the bill into a resolve to restore some sort of rational basis with respect to which public and private entities need to have certain boilers inspected by the state. **Resolve Adopted to Further Review the Issue.**

Uniform Building Code Fix-up Legislation. LD 1253, *An Act to Amend the Laws Governing the Enforcement of Statewide Building Codes*, sponsored by Sen. Tom Saviello of Franklin County.

This bill was submitted to smooth out implementation of the state’s uniform building code. One primary concern to municipalities is that there won’t be a sufficient number of “Third Party Inspectors” available to meet the private-sector inspection capacity necessary to keep this process from becoming a very significant municipal mandate. Among other changes, this bill eases that pressure by allowing municipal code enforcement officers to provide third party inspection services in communities that they are not serving. **Enacted.**

General Assistance Accountability. LD 539, *An Act to Build Accountability into the General Assistance Laws*, sponsored by Rep. Meredith Strang Burgess of Cumberland.

Municipal officials do not believe that General Assistance (GA) resources should be provided to individuals who recently forfeited by their inappropriate behavior the same resources that were being provided through another social service program. That is already the case under Maine law for GA recipients already in the program, but it is not the case for the first time

applicants. This bill would make the consequence of forfeiting public assistance resources the same for both “repeat” and “first time” GA applicants. **Killed in Committee.**

Less Expensive Newspaper Notice. LD 392, *An Act to Amend the Requirements for Publishing Municipal Legal Notices*, sponsored by Rep. Terry Hayes of Buckfield.

The amount of money municipalities have to pay for mandated newspaper notice to the state’s largest daily and weekly newspapers is much higher than necessary to ensure quality public notice. That’s because the towns and cities are not allowed to meet state mandated notice requirements by putting the legal notices in less expensive “shopper notes” publications, even though the shopper notes are distributed to every single post office address (rather than just a few) and even though the shopper notes are entirely free to the citizens who receive them. This bill would allow alternative newspaper notice under controlled circumstances. **Divided Committee Report, Supported in House, Killed by the Senate.**

Municipal Snow Dump Licensing Requirements. LD 333, *Resolve, Directing the Department of Environmental Protection to Amend its Rules Regarding Snow Dumps*, sponsored by Rep. Sheryl Briggs of Mexico.

The rules governing who must get a license from the Department of Environmental Protection (DEP) to move accumulated snow to a “snow dump” provides some exemptions according to where the snow dump is located, although certain municipalities have no choice but to pay a licensing fee to the state to obtain permission to move snow from one place to another in order to facilitate the normal flow of traffic. This bill expands the general exemption. **Enacted as Amended, Directing DEP to Review and Address the Issue.**

Authorized Use of Treasurers’ Facsimile Signatures. LD 297, *An Act to Allow Treasurers to Process Tax Lien Discharge and Sanitary District Sewer Lien Discharge Documents Using Facsimile Signatures*, sponsored by Rep. Alan Casavant of Biddeford.

Current law allows municipal treasurers to use facsimile signatures on certain forms that are filed in the county registries, but there is no ex-

press authority to use facsimile signatures on certain other forms that must be filed. Because some county registrars are refusing to file any forms with facsimile signatures unless the law expressly authorizes facsimile signatures, this bill creates the express authorization. **Enacted.**

Expand the Authority to Pass the InforME-managed Rapid-Renewal Convenience Fees on to On-line Users. LD 1223, *An Act Regarding Credit Card Transactions for InforME Services*, sponsored by Rep. Denny Keschl of Belgrade. The Information Resource of Maine System known as “InforME” allows people to make certain transactions with governmental entities online. Currently, when a municipality enters into a service agreement with InforME, the town or city is going to lose a certain percentage of any payment made to the municipality by credit card through that online system. That is because the municipality and not the credit card user must pay the credit card “merchant fee”. This bill was designed to prevent that result so that all the other taxpayers in town, effectively, do not have to pay for the convenience enjoyed by the credit card user. The core substance of LD 1223 was rolled into another bill dealing with InforME issue (LD 1521) and **Enacted.**

Solid Waste rules as “major substantive”. LD 180, *Resolve, To Change Rules Concerning Landfill Gas and Odor Management from Routine Technical Rules to Major Substantive Rules*, sponsored by Rep. Bernard Ayotte of Caswell.

Several years ago, a well-meaning resolve was enacted by the Legislature directing the DEP to promulgate rules governing odor control and methane gas management at solid waste disposal facilities. According to that legislative directive, those rules were to be “routine technical” rules, which means that no subsequent legislative oversight would be necessary. This bill would re-establish these rules as “major substantive”, which means they must be finally approved by the Legislature rather than just the Board of Environmental Protection. The reason for this change is to make sure the municipal fiscal impacts of the new rules will be more publically discussed before final adoption. **Enacted.**

Streetlights. LD 493, *An Act to Pro-*



Representative Lance Harvell (Farmington) passionately introduced legislation allowing municipal ownership and maintenance of street lights, LD 493, to the Energy, Utilities and Technology Committee. That the bill did not advance to enactment bears no reflection on the sponsor's effort.

a monopoly enterprise controlled by the electric utility in a manner that provides very few options and very little flexibility. This bill would provide municipalities with: (1) a right to rent the appropriate space on utility poles; (2) an opportunity to have greater say in the style of streetlight and the nature of lighting provided; (3) direct influence with respect to the efficiency of the lighting provided; and (4) much more flexibility when deciding to change where and when the street lighting is provided. **Killed in Committee.**

Tree Growth/Farmland Conversion. LD 507, *An Act to More Closely Coordinate the Classification of Forested Farmland under the Farm and Open Space Tax Laws with the Maine Tree Growth Tax Law*, sponsored by Rep. Phil Curtis of Madison.

Under current law, a person may transfer property enrolled in the Tree Growth tax program into the Farm and Open Space tax program without penalty, and the forested acreage included in that transferred parcel is treated for all taxation purposes as though it was still in the Tree Growth tax program. The affected municipality, however, loses the Tree Growth reimbursement it was receiving from the state that was associated with the forested acreage, and the landowner is under no obligation to provide a forest management plan with respect to the forested land included within

vide Municipalities with Reciprocal Rights to Rent Space for Street Lights on Utility Poles in Municipal Rights-of-way, sponsored by Rep. Lance Harvell of Farmington.

In the area of the State served by the Central Maine Power Company, the provision of street light services is something of

the transferred parcel. As printed, this bill provided that the municipality will still receive Tree Growth reimbursement for that forested property even after such a conversion. The bill also required the landowner to continue to comply with the forest management plan requirements associated with the forested land being transferred. The second requirement regarding the continued obligation to maintain a management plan was removed from the bill at the Committee level, but the ongoing reimbursement provision remained in the bill. **Enacted with Amendment.**

Limits on firearms in places of legislative assembly. LD 578, *An Act To Allow Municipalities To Restrict the Possession of Firearms in Certain Circumstances*, sponsored by Sen. Roger Katz of Kennebec County. This bill pro-



Representative Anne Haskell (Portland), a long-time proponent of municipal government, advocated in the House for the enactment of MMA's firearms bill (LD 578).

posed nothing more than to give the legislative body in each municipality the home-rule right to adopt an ordinance restricting the carrying of firearms in that town or city's essential municipal offices and places of legislative assembly, just as the State has reserved those restrictions for itself in its Capitol Area. **Divided Committee Report, Supported in Senate, Killed in the House.**

Right to Know Law vs. the Rules of Discovery. To be sponsored by Sen. Larry Bliss of South Portland.

This bill added an exception to the definition

of "public record" within Maine's Right to Know law to make it clear that parties engaged in litigation are bound by the Maine Rules of Court governing discovery and cannot use Maine's Freedom of Access Law to end-run those rules. **Never Submitted after Sponsor's Resignation.** ML

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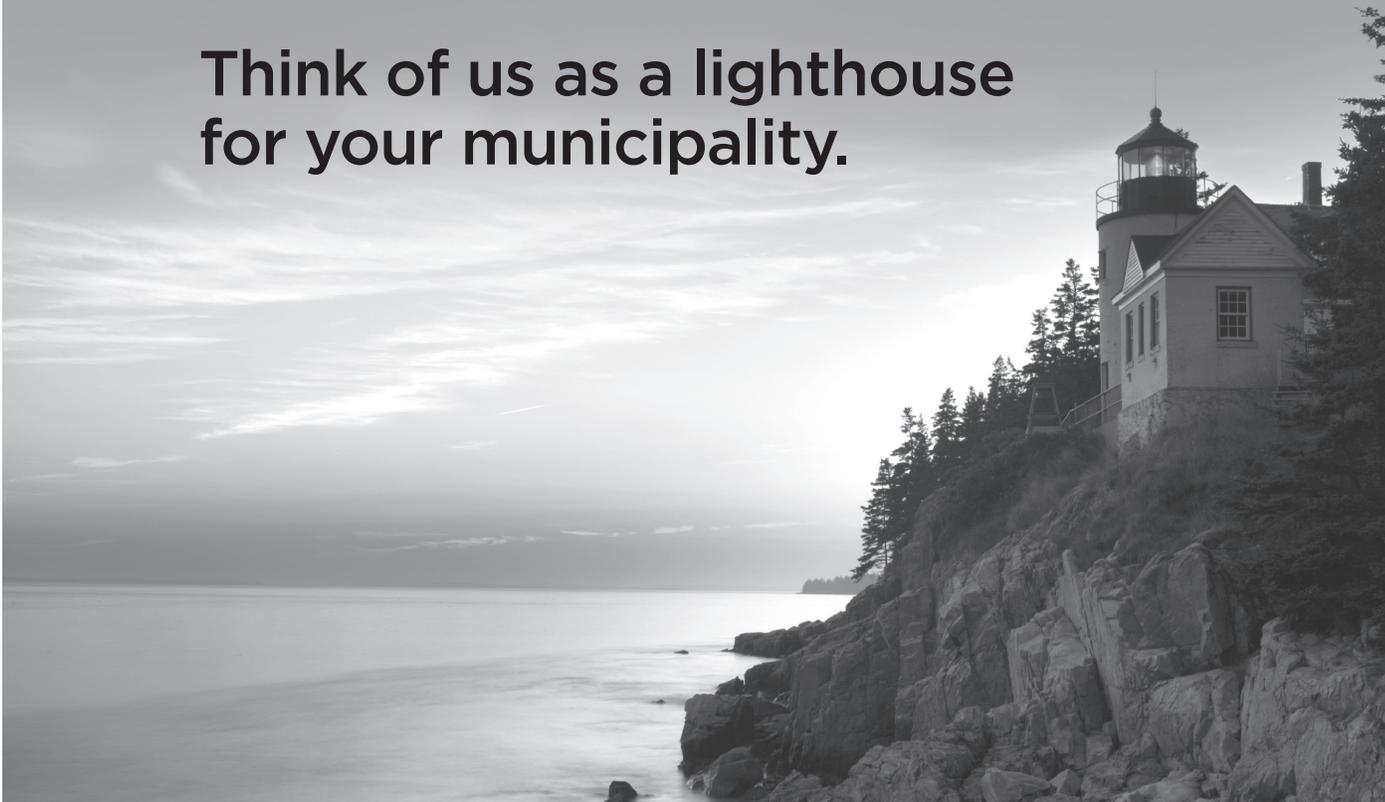


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3. Compiling and developing information relevant to the education and technical assistance needs of Maine's solid waste and recovery programs;
4. promoting market development and cooperative marketing opportunities.

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NEW LAWS

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 (PL) 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 September 28, 2011.

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.

Some of the new laws have yet to be assigned a PL chapter. These laws are designated PL 2011, c. XXX

Agriculture, Conservation & Forestry

LD 11 – An Act To Regulate the Keeping of Wolf Hybrids. (Sponsored by Sen. Trahan of Lincoln Cty.) **Emergency Enacted; PL 2011, c. 100 (5/19/11)**

The goal of this legislation is to transition to a system where in the years ahead the only wolf hybrids in the state will be located in facilities licensed for keeping wildlife in captivity. Specifically, this Act prohibits the keeping of a wolf hybrid without a permit issued by the Department of Inland Fisheries and Wildlife. An exception to the rule is created for wolf hybrids kept as pets and properly licensed under the dog licensing statutes as of June 1, 2011. New wolf hybrids introduced to the state cannot be licensed under the dog licensing statutes after July 1, 2011 unless the wolf hybrid was less than 6 months old as of that date, in which case it could be licensed no later than December 31, 2011. The Act prohibits the sale or transfer of ownership of any wolf hybrid except to a facility licensed to keep wildlife in captivity or to an animal refuge in another state. The Act also provides for how wolf hybrids found at large must be handled by an animal control officer, including directions for returning the animal and summoning the owner if known and located, or transferring the wolf hybrid to an animal shelter if the owner is not known or located.

LD 89 – An Act Regarding Repeated Animal Trespass. (Sponsored by Rep. McCabe of Skowhegan.) **Emergency Enacted; PL 2011, c. 18 (4/01/11)**

This Act adds authorized employees of the Department of Agriculture to the list of officials that can enforce the laws governing animal trespass. The Act also expands the list of circumstances that can result in the owner of a trespassing animal becoming subject to a civil violation. Under current law, a civil violation occurs if a trespassing animal causing a public safety threat is not immediately removed by the owner if so ordered. This Act would add the circumstances of the trespassing animal

causing a threat to private or public property as reason for immediate removal. The Act also applies a civil violation for the offense of owning an animal found trespassing five or more days within a 30 day period or three or more days within a seven day period.

LD 190 – Resolve, Regarding Legislative Review of Chapter 2-C: Voluntary Municipal Farm Support Program, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources. (Reported by Rep. Edgcomb of Caribou for the Department of Agriculture, Food and Rural Resources.) **Emergency Passed; Resolves 2011, c. 7 (3/25/11)**

This Resolve provides for the final legislative approval of the Department of Agriculture’s rules governing the voluntary municipal farm support program. Under this program the legislative body of a municipality can essentially trade some or all of the property taxes associated with a working farm for the development interests in that working farm for a period of at least 20 years. (See Maine Code of Regulations, Department of Agriculture, Chapter 37)

LD 755 – An Act To Strengthen the Laws Regarding Dangerous Dogs. (Sponsored by Rep. Fossel of Alna.) **PL 2011, c. 82**

This Act expands the requirements a court can impose on the owner of a dangerous dog by allowing a court to order the dog to be securely muzzled, restricted by a tether that meets certain strength standards and is not more than three feet in length, and kept under the direct control of the dog’s owner or keeper whenever the dog is off the owner’s or keeper’s premises. The Act also allows a court to order a dog euthanized if dealing with a dog previously found to be dangerous by the court.

LD 837 – Resolve, To Enhance the Use of Integrated Pest Management on School Grounds. (Sponsored by Rep. Nelson of Falmouth.) **Resolves 2011, c. 59**

This Resolve directs the Board of Pesticides Control to develop best management practices (BMPs) with respect to the application of pesticides for the establishment and maintenance of school lawns, playgrounds and playing fields. The Resolve further directs the Board to provide those BMPs to all school systems and make sure their implementation is understood by the appropriate school personnel. The Resolve also directs the Board to assess compliance with the pesticide application rules and protocols in school settings and to report back to the Legislature by February 2014 on the Board’s findings and work products resulting from this Resolve.

LD 850 – An Act To Improve the Protection of Animals. (Sponsored by Sen. Gerzofsky of Cumberland County.) **PL 2011, c. 288**

This Act expands the list of persons who are allowed to take all steps reasonably necessary to remove an animal from a motor vehicle if the animal’s safety appears to be in immediate danger. Current law gives that authority to law enforcement officers, humane agents and animal control officers. This Act adds firefighters and licensed security guards to that list. All qualified persons using this authority are required to leave in a secure and conspicuous location on or within the automobile a written notice including the person’s name and the address of

the location where the animal may be claimed.

LD 1534 – Resolve, To Reform the Land Use and Planning Authority in the Unorganized Territories. (Sponsored by Rep. Gifford of Lincoln.) **Resolves 2011, c. XXX**

This Resolve establishes a 13-member commission to consider reforming the governance of land use planning in the unorganized territory (UT) and make recommendations on the role of state agencies and county government, the planning and appeals process, and opportunities for increased self determination in land use planning in the UT. The committee membership includes the Commissioner of the Department of Conservation, two residents of the UT, two county commissioners, a regional planner from a council of governments, and one person representing each of the following: a large-parcel property owner in the UT engaged in the forest products industry, a small-parcel property owner in the UT engaged in the forest products industry, a sportsmen's group, a statewide environmental or conservation organization, a regional environmental or conservation organization, the tourism or outdoor recreation industry, and a regional or local economic development organization. The commission must provide a progress update to the Committee on Agriculture, Conservation and Forestry no later than October 28, 2011 and submit its recommendations to that Committee no later than January 4, 2012.

Appropriations & Financial Affairs

LD 100 – An Act To Make Supplemental Appropriations and Allocations 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 Year Ending June 30, 2011. (Sponsored by Rep. Flood of Winthrop.) **Emergency Enacted; PL 2011, c. 1 (2/08/11)**

This supplemental state budget sweeps up \$111 million of unanticipated state revenue coming in during FY 2011, packages it with about \$14 million in additional General Fund savings, and appropriates those resources for various programs, the largest being a \$70 million reimbursement payment from the General Fund to Maine's hospitals. Of municipal interest, this Act "transfers" to the state's General Fund an additional \$2.8 million from the municipal revenue sharing account that would otherwise be distributed during FY 2011 to the towns and cities for property tax relief. That "transfer" from the municipal revenue sharing account to the state's General Fund comes on top of a \$35 million transfer adopted by the previous Legislature. This action brings the total amount of money pulled out of municipal revenue sharing to prop-up the state budget over the FY 2010-2011 biennium to \$63.5 million, or roughly 25% of the total.

LD 1043 – 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, 2011, June 30, 2012 and June 30, 2013. (Sponsored by Rep. Flood of Winthrop.) **Emergency Enacted; PL 2011, c. 380 (6/20/11)**

This Act is the state budget for the FY 2012-2013 biennium. The elements of the proposed budget that relate most directly to municipal government include:

Municipal Revenue Sharing. The state budget "transfers" \$84.6 million out of the municipal revenue sharing fund over the next two year period and deposits that money in the state's General Fund to help pay for other legislative priorities. The municipal revenue sharing fund is the monthly repository of 5% of the state's sales and income tax revenue, which is supposed to be distributed to the municipalities for property tax

reduction purposes. Under the terms of the budget, \$40.35 million will be taken from revenue sharing in FY 2012 and \$44.27 million will be taken from revenue sharing in FY 2013. This corresponds to a similar "transfers" that totalled \$63.5 million over the last two fiscal years. These proposed transfers out of the revenue sharing program have the effect of leaving \$94 million a year for the purpose of distribution, according to current state revenue projections.

General Purpose Aid to Education (GPA). In the area of school subsidy, the budget provides modest increases in General Fund appropriations for each year of the biennium.

The GPA appropriation from the General Fund for FY 2011 year was \$873 million. Under the proposed budget, the appropriation would increase by \$23 million for FY 2012 to \$895 million, a 2.6% increase. The proposed appropriation for FY 2013 is \$914 million, a 2.1% year-to-year increase. For municipal officials still paying attention to the state's progress toward the "55%" standard established in law but never achieved, the proposed GPA appropriation for both years of the biennium is 45% of the full cost of K-12 education as measured by the Essential Programs and Services school funding model (EPS).

Redefining the "Total Cost of K-12 Education". The budget redefines the term "Total Cost of Funding Public Education from Kindergarten to Grade 12" to include the state's premium payment for teacher's retirement, which for FY 2012 is \$173 million. Because this new definition of "Total Cost" does not fold the teacher retirement premium into the Essential Programs and Services school funding model, there is no short term impact with respect to the General Purpose Aid to Education school subsidy distribution. The longer term impact could be to dilute the state's required but unachieved "55%" share of K-12 public education. For more details, please refer to the *Disappointments* article in this edition of the *Maine Townsman*.

Working Group to Redesign State Employee and Teacher Retirement System. The budget establishes a five-member working group that is charged with developing an implementation plan to close the current "defined benefit" retirement plan for all state employees and school teachers and replace it with a retirement benefit plan that is supplemental to Social Security and would apply to all state employees and teachers who are first hired after June 30, 2015. The working group members include the Executive Director of the Maine Public Employees Retirement System, the Commissioner of the Department of Administrative and Financial Services, and a representative from the Maine Education Association, the Maine School Management Association and the Maine State Employees Association. The redesigned retirement plan to be developed by this working group would clearly put the Social Security employer-share obligations on the school systems rather than the state. The charge to the working group does not specify to what degree, if any, the employer's share of the supplemental retirement piggy-back plan would fall to the school systems, as well.

Distribution of Certain State Liquor Franchise Revenues. The budget directs the state to enter into negotiations of the state's wholesale liquor franchise for the purpose of extending that franchise for another 10 years. The current 10-year contract is scheduled to expire on June 30, 2014 and this Act directs the next 10-year contract to be executed by June 20, 2013. The budget directs the first \$20 million of the negotiated 10-year contract to balance the state budget. This budget provision further provides that the remainder of the value of the negotiated contract, as issued to the state by the franchisee on an annual basis for each of the next 10 years, be divided in four ways when received and dedicated to certain accounts. The approximate value of that annual distribution is projected in the \$50 - \$65 million range. Of that annual distribution, 15% is dedicated to the state's drinking water and wastewater capital investment programs, 20% is dedicated to the Department of

Transportation's Highway and Bridge Capital program to be used for highway preservation and rehabilitation projects, 30% is dedicated to the state's Budget Stabilization Fund, and 35% is dedicated to the General Fund.

"Circuit Breaker". Over the past biennium the property tax and rent rebates provided under the so-called "Circuit Breaker" program have been reduced by 20%. The budget continues that policy over the next biennium.

Homestead Exemption and Tree Growth Reimbursement. The budget implements no changes to Homestead Exemption program as currently configured, and it allows the Tree Growth reimbursement program to operate as designed, without raiding money from that account. For comparative purposes, after multiple cuts to the FY 2011 distribution, approximately \$4.8 million was distributed in Tree Growth reimbursement for FY 2011. The Tree Growth reimbursement appropriation for FY 2012 in this budget is \$8.65 million for FY 2012 and \$7.95 million for FY 2013.

State Planning Office Deconstructed. The budget also establishes an 11-member committee that is charged with essentially deconstructing the State Planning Office by developing a plan that transfers the personnel and responsibilities of that Office to other departments and agencies within state government. The working group's recommendation, along with implementing legislation, must be submitted to the Legislature for consideration by December 1, 2011. The membership of the working group includes eight state agency commissioners, the Director of the State Planning Office, one member of a local or regional governing body and one member of a municipal or regional governing body.

Court security and municipal law enforcement officers. The budget clarifies that the Judicial Department may use municipal law enforcement officers to provide court security.

Criminal Justice & Public Safety

LD 35 – An Act Relating to Concealed Firearms Locked in Vehicles. (Sponsored by Rep. Cebra of Naples.) **PL 2011, c. 393**

This Act provides that an employer may not prohibit an employee with a valid concealed firearms permit from keeping a firearm in the employee's vehicle as long as the vehicle is locked and the firearm is not visible. The Act also provides that the employer may not be held liable in any civil action for damages, injury or death resulting from another person's actions involving a firearm or ammunition transported or stored on the employer's property under the authority provided by this law.

LD 82 – An Act To Amend the Laws Governing County Jail Budgeting for York County. (Sponsored by Rep. Moulton of York.) **PL 2011, c. 431**

This Act reduces the amount of property taxes that must be collected by York County for jail purposes pursuant to the 2009 state-county corrections unification system. Current law requires that collection to be \$8,667,248. The Act reduces that collection to \$8,386,815, a reduction of \$280,433. The effective date of the Act is July 1, 2013.

LD 83 – An Act To Legalize the Sale, Possession and Use of Fireworks. (Sponsored by Rep. Damon of Bangor.) **PL 2011, c. 416**

This Act creates a system to legalize the sale, possession and use of "consumer fireworks". Generally, consumer fireworks include products that are tested and certified and meet U.S. Consumer Product Safety Commission standards. The State Fire Marshal is directed to adopt rules prohibiting the use, sale and possession of certain aerial fireworks, such as missile, sky and bottle rockets, helicopters and aerial spinners. Under the

terms of the law, municipalities are preempted from adopting ordinances that ban the possession of consumer fireworks. Municipalities may adopt ordinances prohibiting or restricting the sale or use of consumer fireworks within the municipality. A copy of the ordinance must be provided to the State Fire Marshal within 60 days of adoption. Municipalities may also adopt a permitting process for the sale of fireworks within the municipality. Municipalities that choose to issue permits must notify the State Fire Marshal at least 60 days before initiating the permitting program. Municipalities may only issue permits to an applicant who is at least 21 years of age, possesses a federal permit, applies for a permit on a form prescribed by the Department of Public Safety, and meets Maine storage and handling regulations. Before a municipal permit is finally issued, the application must be approved by the municipality's police chief, fire chief and code enforcement officer, if those positions exist. Municipalities may require a reasonable fee for the permit. Municipal police officers, fire officials and code enforcement officers are authorized by the bill to enforce violations of the consumer fireworks law. Beginning in 2013, the Office of the State Fire Marshal must annually submit to the Legislature's Criminal Justice and Public Safety Committee a report regarding the sale and use of consumer fireworks, including information on the issuance and oversight of licenses to sell fireworks, reported fireworks-related injuries, fires or other property damage and municipal restrictions or prohibitions on the sale or use of consumer fireworks. The effective date of the law is delayed to January 1, 2012.

LD 123 – An Act To Assist Seasonal Entertainment Facilities with Public Safety Requirements. (Sponsored by Rep. Davis of Sangerville.) **PL 2011, c. 349**

This Act prohibits the Commissioner of Public Safety from requiring the installation of automatic sprinklers in existing "commercial places of assembly" that are open for no more than 50 days per calendar year. Commercial places of assembly are defined to include bars with live entertainment, nightclubs, assembly halls with festival seating and restaurants.

LD 124 – An Act To Eliminate Certain Restrictions on the Installation of Chimneys and Equipment. (Sponsored by Rep. Harvell of Farmington.) **PL 2011, c. 225**

A recent amendment to the law authorizing the development of rules by the Maine Fuel Board governing installation of fuel-burning devices into chimneys required the Board's rules to allow for the continuing combination of a wood (or "solid fuel") burning device with an oil burning device in the same lined chimney, provided three standards were met and provided the chimney had been existing and in that type of use prior to February 1998. The three standards are: (1) sufficient draft is available for each appliance; (2) the chimney is lined and structurally intact; and (3) a carbon monoxide detector is installed in the building near a bedroom. This Act allows for the combination of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use after February 1998 provided those three standards are met, as well as two additional standards. The two additional standards are: (1) the solid fuel burning appliance has been listed by Underwriters Laboratories or other nationally recognized testing laboratory; and (2) the solid fuel burning appliance is installed in accordance with the manufacturer's specifications.

LD 352 – An Act To Amend Laws Governing Criminal History Record Information. (Sponsored by Rep. Haskell of Portland.) **Emergency Enacted; PL 2011, c. 52 (4/25/11)**

This Act allows the division of licensing and regulatory services within the Department of Health and Human Services to have access to intelligence and investigative information from

law enforcement agencies for use in the investigation of suspected abuse, neglect or exploitation in licensed, certified and registered facilities and programs that provide care to children and adults.

LD 422 – An Act To Amend the Laws Governing the Tax Assessment for Correctional Services in Lincoln County and Sagadahoc County. (Sponsored by Sen. Trahan of Lincoln Cty.) **Emergency Enacted; PL 2011, c. 315 (6/13/11)**

This Act establishes the property tax assessment that must be levied by both Lincoln and Sagadahoc Counties for county correctional services at \$2,657,105, which is the average of the combined amount currently levied by both counties under the terms of the state-county unified correctional system enacted into law in 2009. The Act also requires Lincoln County to pay all withheld revenue from its tax assessment for correctional services from July 1, 2009 to June 30, 2011 directly to the Two Bridges Regional Jail by July 1, 2011.

LD 446 – An Act To Allow Law Enforcement Officers from Out of State To Carry Concealed Firearms. (Sponsored by Rep. Cebra of Naples.) **PL 2011, c. 396**

This Act allows an active or retired law enforcement officer who is a resident of another state to carry a firearm in Maine without a concealed weapons permit, following and referencing the federal statute which authorizes qualified active and retired law enforcement officers to carry concealed firearms. The Act requires those law enforcement officers to be carrying on their person photographic identification verifying their qualifications.

LD 523 – An Act To Modify the Regulation of Fireworks. (Sponsored by Rep. Crockett of Bethel.) **Emergency Enacted; PL 2011, c. 202 (6/02/11)**

This Act amends the definitions of “fireworks” to allow the use of signal, antique or replica cannons as long as no projectile is fired.

LD 914 – An Act To Make Certain Synthetic Cannabinoids Illegal. (Sponsored by Rep. Nass of Acton.) **PL 2011, c. 428**

This Act makes certain synthetic cannabinoids illegal, the possession of which is subject to a Class E crime.

LD 1227 – An Act Concerning the Disposal of Unclaimed, Lost or Stolen Personal Property by Law Enforcement Agencies. (Sponsored by Rep. Burns of Whiting.) **PL 2011, c. 267**

This Act allows a law enforcement agency, after unsuccessfully attempting to dispose of unclaimed, lost or stolen property through the auction process established in current law, to either donate the property to a nonprofit organization or charity or dispose of the property as waste. If disposed as waste, no law enforcement officer or family member of the law enforcement officer may end up in possession of the “waste” property.

LD 1315 – An Act To Establish an Integrated Statewide System To Manage and Enforce Electronic Warrants. (Sponsored by Rep. Plummer of Windham.) **PL 2011, c. 214**

This Act establishes an integrated statewide system to manage and enforce electronic arrest warrants to be executed by law enforcement agencies.

LD 1347 – An Act Relating to Locations where Concealed Weapons May Be Carried. (Sponsored by Rep. Cebra of Naples.) **PL 2011, c. 394**

This Act eliminates the prohibition on certain persons possessing firearms in state parks and historic sites. The persons allowed under this Act to carry firearms in those locations are

people with concealed weapons permits issued in Maine or other reciprocal states as well as local, state or federal law enforcement officers and certain active or retired law enforcement officers qualified pursuant to federal law to possess firearms in these areas provided they have photographic identification in their possession.

LD 1419 – An Act To Improve the Coordination of County Correctional Services. (Sponsored by Rep. Plummer of Windham.) **PL 2011, c. 374**

This Act makes a number of changes to the laws governing the unification of the county jail and state correctional system as enacted in 2009, and that unified system’s Board of Corrections (BOC). Specifically, this Act: (1) changes the focus of the charge to the BOC from the “unification” of the county and state correctional system to the “coordination” of that county-state system; (2) requires the proposed county correctional budgets to be developed as biennial budgets and submitted to the BOC at least one year before the beginning of each state biennium; (3) repeals the system whereby county correctional budgets that were within the “LD 1” growth limitation index had to be approved by the BOC and replaces it with a system whereby the advisory “Corrections Working Group” will develop on a biennial basis a budget growth index as a matter of guidance for the BOC; (4) changes the make-up of the BOC by reducing the number of members from the general public from four members to two, increasing the sheriff representation from one representative to two, and increasing the county commissioner representation from one member to two; and (5) creates the position of Executive Director for the BOC.

LD 1439 – An Act Regarding Permits To Carry Concealed Firearms. (Sponsored by Rep. Hanley of Gardiner.) **PL 2011, c. 298**

This Act makes the following changes to the laws governing permits to carry concealed firearms: (1) it defines “handgun”; (2) it clarifies that concealed firearm permits allow permittees to carry only handguns, such as pistol-type firearms, on the person, not long guns or machine guns; (3) it establishes that permit issuing authorities have 30 days to issue or formally deny the issuance of a concealed weapons permit for a person who has been a Maine resident for at least five years, and 60 days for a person who is a nonresident or who has not been a Maine resident for at least 5 years; and (4) it prohibits criminal justice agencies from charging fees to conduct record checks in relation to background checks that are conducted by issuing authorities as part of the process of reviewing a permit application.

LD 1489 – An Act Regarding Regulation of Emergency Medical Services. (Sponsored by Sen. Rector of Knox Cty.) **PL 2011, c. 271**

This Act makes several amendments to the laws governing emergency medical services and the state’s Emergency Medical Services Board. The amendments include the modification of certain definitions, an expansion of the confidentiality provisions governing the records of the Emergency Medical Services’ Board, a clarification of the applicable licensing and relicensing standards for emergency medical services personnel, and the authorization of the Board to appoint a licensed physician as the assistant medical director to provide services along with the statewide medical services medical director.

LD 1491 – An Act To Strengthen the Laws against Driving under the Influence of Drugs. (Sponsored by Rep. Willette of Mapleton.) **PL 2011, c. 335**

This Act requires the Secretary of State to suspend administratively the driver’s license of a person determined to have operated a motor vehicle with a confirmed positive drug test

in the same manner and for the same time periods as a person whose license is suspended administratively for operating a motor vehicle with an excessive alcohol level. The determination of operating a motor vehicle with a positive drug test is made by the Secretary of State upon receiving a report from a drug recognition expert that includes information regarding trace amounts of any drug or the metabolites of any drug at detectable concentration levels within a person's blood or urine in accordance with the drug reporting rules, standards, procedures and protocols adopted by the Department of Health and Human Services.

Education & Cultural Affairs

LD 19 – An Act To Change the Annual Meeting Date and Fiscal Year of Mount Desert Island Regional School District. (Sponsored by Rep. Flemings of Bar Harbor.) **Emergency Enacted; P & SL 2011, c. 1 (2/04/11)**

This Act amends the private and special law creating the Mt. Desert Island Regional School District to conform its budget year to a "state" fiscal year (July 1 – June 30) rather than a calendar fiscal year.

LD 139 – An Act To Reduce the Time Period after Which a Member Municipality May Petition To Withdraw from a Regional School Unit. (Sponsored by Rep. Edgcomb of Caribou.) **PL 2011, c. 328**

This Act reduces the amount of time a municipality that is a member of a Regional School Unit must remain a member before petitioning to withdraw from membership. Current law requires at least three years of membership before initiating the withdrawal process. This Act reduces that period of time to 30 months.

LD 385 – An Act To Amend the School Administrative Unit Consolidation Laws. (Sponsored by Rep. Johnson of Greenville.) **PL 2011, c. 251**

This Act eliminates, beginning in FY 2013, the financial penalties that can be applied to a school system that is not in compliance with the school consolidation law enacted in 2007. The Act also allows for school systems to withdraw from an Alternative Organizational Structure (AOS) or Regional School Unit (RSU) without having to re-join another conforming RSU within two years as was previously required. In repealing the penalties applied to school systems that are noncompliant with the school consolidation laws, the Act also effectively directs the repeal of any rules promulgated by the State Board of Education that disadvantage noncompliant schools with respect to competing for school construction funds.

LD 397 – An Act To Amend the Laws Governing Competitive Bidding for School Construction and Repair. (Sponsored by Sen. Langley of Hancock Cty.) **PL 2011, c. 352**

Current law requires any school construction, major alteration or repair project costing more than \$100,000 to be put out for competitive bid. This Act increases that threshold to \$250,000. The Act defines those projects to include associated maintenance and service contracts that are performed by the person responsible for the construction project, and the Act establishes the \$250,000 threshold to include the aggregate costs of two or more contracts that are entered into within a six-month period. The Act creates an exemption for the competitive-bid requirement for contracts for energy conservation services as those types of contracts are described and qualified in statute.

LD 404 – An Act To Assist School Administrative Units

in Providing Health Insurance to Their Employees. (Sponsored by Rep. Nelson of Falmouth.) **PL 2011, c. 249**

This Act: (1) requires the Maine Education Association Benefits Trust, which is the teachers' union's health insurance program for schoolteachers, to seek competitive bids at least once every five years, and make the competitive bids available to any individual school administrative unit on request; (2) requires the MEA Benefits Trust to review the current benefit options and consider creating a new benefits option with a lower premium rate for the 2012 plan year; and (3) requires the MEA Benefits Trust to include a representative appointed by the Maine School Boards Association to serve as a member of the board of trustees no later than January 1, 2012.

LD 800 – An Act To Allow the Town of Surry To Join School Union No. 93. (Sponsored by Sen. Langley of Hancock County.) **Emergency Enacted; P & SL 2011, c. 9 (5/31/11)**

This Act authorizes the Commissioner of the Department of Education to adjust the grouping of the school administrative units in School Union #93 to include the Town of Surry.

LD 860 – An Act To Reduce Student Hunger. (Sponsored by Sen. Alford of Cumberland Cty.) **PL 2011, c. 379**

This Act provides an option for public school systems to voluntarily participate in a federal summer food service program for students who qualify according to federal standards for the free or reduced-price school lunch program. For 2011, a school may qualify for this optional program if it has at least one public school in which the percentage of students who qualify for free/reduced lunch is equal to or greater than the minimum percentage for the summer lunch program established in federal law. For the summer of 2012, a school may qualify if at least 75% of its students are eligible for free/reduced lunch. For the summer of 2013, a school may qualify if at least 65% of its students are eligible for free/reduced lunch, and for the summer of 2014 and thereafter, a school may qualify if at least 50% of its students are eligible for free/reduced lunch. The Maine Department of Education is directed to assist participating schools in securing the necessary funding to provide the summer lunch program.

LD 903 – An Act To Allow a Student Attending Private School Access to Public School Cocurricular, Interscholastic and Extracurricular Activities. (Sponsored by Rep. Picchiotti of Fairfield.) **PL 2011, c. XXX**

This Act provides that a student enrolled in an "equivalent instruction program" in a private school is eligible to participate in public school extracurricular and interscholastic activities even if the private school is not a member of the Maine Principals' Association. The Act also allows the school principal to withhold approval of any such participation request. The Act generally requires the participating student to meet the requirements that apply to the regularly enrolled student participants.

LD 938 – An Act to Permit Public School Online Learning Programs To Accept Nonresident Tuition Students. (Sponsored by Rep. Beaulieu of Auburn.) **Emergency Enacted; PL 2011, c. 353 (6/15/11)**

This Act authorizes a school board to decide whether to accept tuition students who reside, and whose parents reside, outside of the state in an online learning program. The authority created by this law expires on July 1, 2014. Tuition students enrolled in these online courses are not counted as students for the purposes of calculating the school system's Essential Programs and Services school funding allotment.

LD 949 – Resolve, To Require the Department of Educa-

tion To Submit a Plan for the Implementation of Standards-based Education. (Sponsored by Sen. Alfond of Cumberland Cty.) **Resolves 2011, c. 83**

This Resolve directs the Department of Education to submit a report to the Legislature by December 1, 2011 consisting of draft legislation that will establish the Learning Results-based proficiency standards that must be met by a Maine High School student before graduating.

LD 1033 – An Act To Support Resource Sharing among Maine Libraries. (Sponsored by Rep. Rotundo of Lewiston.) **PL 2011, c. XXX**

This Act appropriates \$100,000 from the General Fund for the second year of the biennium (FY 2013) in order to provide a weekly van delivery service to help defray the cost of sending and returning items through interlibrary loan to public libraries across Maine. The Act specifies that the funds must be used to defray the cost of van delivery service for those libraries that participated in that service in FY 2010 and FY 2011.

LD 1211 – An Act To Include Civics in the Social Studies and History Courses Required for a High School Diploma. (Sponsored by Rep. Nelson of Falmouth.) **PL 2011, c. 294**

This Act requires a student at the secondary school level to complete at least one course in civics and government in order to receive a high school diploma.

LD 1274 – An Act To Restore Equity in Education Funding. (Sponsored by Sen. Raye of Washington Cty.) **PL 2011, c. 419**

This Act makes three changes to the Essential Programs and Services school funding model (EPS). Beginning with the FY 2013 school year, this Act: (1) reduces the EPS-based staff-to-student ratios (not including school teachers) by 10% for school systems with less than 1,200 students; (2) removes the benefit component from the combined teacher/staff salary-plus-benefit base (thus reducing the value of that base) which in the EPS model is then adjusted by the regional labor market index; and (3) adds an adjustment for a school system that is a minimum subsidy receiver if the percentage of economically disadvantaged students in the school system is greater than the state average.

LD 1307 – An Act To Amend and Clarify Certain Education Statutes. (Sponsored by Rep. Richardson of Carmel.) **PL 2011, c. 171**

This Act makes a number of administrative and clarifying changes to the laws governing regional school units, with a particular focus on the procedures and referendum voting required to close an elementary or secondary school. For example, the Act establishes that the statutory school closing procedures only apply in the circumstance where a school is being closed because of lack of need.

LD 1356 – An Act To Amend the Laws Concerning the School Revolving Renovation Fund. (Sponsored by Sen. Langley of Hancock Cty.) **PL 2011, c. 153**

This Act amends the law governing the School Revolving Renovation Fund by expanding the Priority 1 status loan category to include the removal of hazardous materials (rather than just the removal of asbestos) and creating a new Priority 3 status loan category for repairs and improvements related to energy and water conservation, which pushes the “learning space upgrade” category to Priority 4.

LD 1446 – Resolve, To Develop and Implement a Farm and Fish to School Pilot Program. (Sponsored by Rep. McCabe of Skowhegan.) **Resolves 2011, c. 91**

This Resolve directs the Department of Agriculture, Food

and Rural Resources, the Department of Education and the Department of Marine Resources to support and assist one or more cooperating nonprofit organizations in the development and implementation of a pilot program to examine the benefits of purchasing food grown, raised or caught by Maine food producers for use in the state’s public school food programs. If grant money is available, the Resolve authorizes piloting the program in a rural school system and an urban school system, with the departments submitting a report to the Legislature by January 1, 2013 regarding the impacts and the outcome of the pilot program.

LD 1488 – An Act To Create Innovative Public School Zones and Innovative Public School Districts. (Sponsored by Sen. Langley of Hancock Cty.) **PL 2011, c. XXX**

This Act allows individual schools within school systems to develop innovation plans to be reviewed for approval by the school boards of those districts that will allow for the implementation of “innovative public school districts” or “innovative public school zones”. If ultimately approved, the innovative school districts or zones would be provided certain flexibilities with respect to otherwise required educational systems, protocols, standards or assessments in exchange for exceeding academic performance standards. The Act also provides for the establishment of the Fund for the Efficient Delivery of Educational Services within the Department of Education. This Fund permits the Department to provide grants to school systems, municipalities and counties, or a combination of two or more of those entities, for the purpose of implementing plans for local and regional initiatives (such as innovative public schools) in order to improve educational opportunity and student achievement through the efficient delivery of educational services. This Act appropriates \$500 for each year of the biennium as placeholder money for that purpose.

LD 1553 – An Act To Create a Public Charter School Program in Maine. (Sponsored by Sen. Mason of Androscoggin Cty.) **PL 2011, c. 414**

This Act establishes the process to authorize the establishment of public charter schools. The entities authorized to establish a public charter school include the State Charter School Commission, a local school board within the boundaries of the school system, or a collaborative between the authorizing entities to establish a regional charter school. The State Charter School Commission is a seven-member commission including three members of the State Board of Education and four members appointed by the State Board of Education. The Act defines the essential characteristics of a public charter school as a school that: (1) has autonomy over key decisions including finance, personnel, scheduling, curriculum and instruction; (2) is governed by a board that is independent of a school administrative unit; (3) is established and operated according to a charter contract between the governing board and the authorizing entity; and (4) parents choose to send their children. The Act establishes that public charter schools may have special focuses or specific academic approaches including special needs, at-risk students, English language learners, students in the juvenile justice system, vocational training, environmental education, natural resource industries, foreign language, visual and performing arts, science and mathematics, etc. The Act details the procedures that need to be followed by both applicants and authorizers in order to establish and oversee the operations of a public charter school, including provisions that generally prohibit a public charter school from discriminating against accepting any students who wish to attend the charter school and requiring acceptance decisions to be made by random choice when there are more applicants to the public charter school than its capacity. The Act provides

the basic funding for a public charter school by requiring the state and local financial resources that would be attached to a regular public school student to “follow” the student to the public charter school.

LD 1559 – Resolve, To Transfer the Guilford Butler School to Regional School Unit 13. (Sponsored by Sen. Rec-tor of Knox Cty.) **Resolves 2011, c. 88**

This Resolve authorizes the State to transfer ownership of the Gilford Butler school in South Thomaston to RSU #13.

Energy, Utilities & Technology

LD 84 – An Act To Improve the Sewer District Rate Col-lection Procedures. (Sponsored by Rep. Fitts of Pittsfield.) **Emergency Enacted; PL 2011, c. 26 (4/11/11)**

This Act authorizes certain qualified, enchartered sewer districts to utilize the tax-lien system of enforcing sewer bill payments. For this statutory system to apply, the sewer district’s charter must not already authorize the district to establish a lien on real estate served by the sewer system, and the authority to exercise the lien provisions must be approved by the voters in the district by referendum.

LD 331 – Resolve, Regarding Legislative Review of Por-tions of Chapter 895: Underground Facility Damage Preven-tion Requirements, a Major Substantive Rule of the Public Utilities Commission. (Sponsored by Rep. Fitts of Pittsfield.) **Emergency Passed; Resolves 2011, c. 31 (5/09/11)**

This Resolve amends the existing rules of the Public Utili-ties Commission regarding underground facility damage prevention requirements (the “Dig Safe” rules). Among the changes, this Resolve: (1) replaces the definition of “emergency” and “emergency excavation” with a definition of “emergency exca-vation” provided in statute; (2) provides that the period after which a Dig Safe System ticket must be renewed is 60 days and that the ticket may be renewed twice; and (3) removes a con-flicting provision in the current rule so that it is made clear that in the case of an excavation involving subcontractors, the exca-vator that is directly responsible for performing the excavation shall ascertain that all Dig Safe notifications are performed.

LD 407 – An Act To Clarify the Dig Safe Standards. (Sponsored by Rep. Cray of Palmyra.) **Emergency Enacted; PL 2011, c. 72 (5/09/11)**

This Act amends the state’s Dig Safe law in several ways. The Act: (1) extends from 30 to 60 days the amount of time that can elapse before an excavator needs to re-notify the Dig Safe system if the proposed excavation does not occur after the initial notification; (2) requires an excavator to commence an excavation related to an emergency situation within 12 hours of notification, or as soon thereafter as can be safely accom-plished; (3) exempts excavations in defined gravel pits and quarries from Dig Safe notification; (4) establishes a notifica-tion and response system whereby entities intending to grade gravel roads can provide notice, accept responses from entities with underground facilities, and thereafter be allowed to grade the gravel road over the next 12-month period; and (5) estab-lishes a 23-member working group charged with studying and making recommendations on the following Dig Safe issues: (a) pre-excavation marking standards for excavators; (b) marking standards for owners and operators of underground facilities; (c) enforcement procedures and appropriate use of penalties; and (d) clarification of incident reporting and incident inves-tigation protocols. Among the 23 members appointed to this working group, one member is a public works official from a large-population municipality, one member is a public works official from a small-population municipality, one member rep-

resents a large water or sewer utility and one member represents a small water or sewer utility. The working group’s report must be submitted to the Legislature by January 15, 2012.

LD 553 – An Act To Improve Maine’s Energy Security. (Spon-sored by Rep. Fitts of Pittsfield.) **PL 2011, c. 400**

This Act establishes targets un-der the Governor’s Office of Energy Independence and Security (Office) to reduce the state’s dependency on all oil use in the state (relative to the 2007 level) by at least 30% by 2030 and at least 50% by 2050. The Act directs the Office to develop a plan to achieve those targets and to sub-mit that plan to the Legislature by December 1, 2012.

LD 772 – An Act To Modify the Auditing Requirements for Certain Small Water Utilities. (Sponsored by Rep. Ayotte of Caswell.) **PL 2011, c. 77**

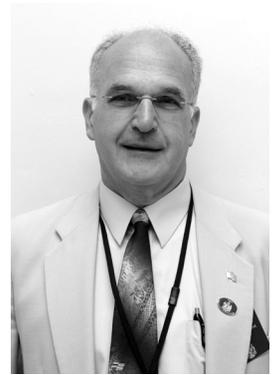
This Act amends the standards that apply to the duties of qualified small water utilities to conduct annual audits of their accounts. Specifically, a consumer-owned water utility with gross annual revenues of \$50,000 or less is required to conduct an audit of its accounts in any year used as a test year for rate-making purposes. A consumer-owned water utility realizing gross annual revenues greater than \$50,000 but less than or equal to \$250,000, must cause to be conducted an “annual re-view” of its accounts, which is less rigorous than a full audit, but a full audit is required in any year used as a test year for rate-making purposes. At a minimum, a full audit must be done at least once every five years.

LD 890 – An Act To Create the Anson and Madison Wa-ter District. (Sponsored by Rep. Curtis of Madison.) **Emer-gency Enacted; P & SL 2011, c. 6 (5/19/11)**

This Act creates the combined Anson and Madison Water District, subject to a referendum vote by the legal voters of each town approving the creation of this district.

LD 909 – An Act To Provide Additional Flexibility for the Funding of Infrastructure Improvements by Consumer-owned Water Utilities. (Sponsored by Rep. Fitts of Pitts-field.) **PL 2011, c. 106**

This Act makes several changes to the laws governing consumer-owned water utilities and the process they undergo to put proposed rate increases before the Public Utilities Com-mittee. Specifically, the Act: (1) repeals the requirements that to qualify for the streamlined rate-making process, the utility must have a net loss in the two immediately preceding fiscal years and the utility must file balance sheets or financial state-ments for the three most recent years together with the other financial information required by the PUC; (2) repeals the requirement that when the utility advertises the public meeting on the rate increase that the notice must inform customers of the “10-person complaint process”; and (3) raises the amount of rate increases that may be accomplished through the stream-lined rate-making process according to a tiered system depend-ing on the size of the utility. The Act also directs the PUC to convene a working group to examine ways of ensuring that the capital requirements of these utilities are provided for in



Thanks to the sponsorship of Representative Denny Keschl (Belgrade), municipalities will now have a choice with respect to the credit card “merchant fees” that apply to municipalities when custom-ers pay for municipal services through the InforME system by credit card.

an adequate manner. The PUC's report on that study must be submitted to the Legislature by January 15, 2012.

LD 1018 – An Act To Amend the Charter of the Anson Water District. (Sponsored by Rep. Dunphy of Embden.) **P & SL 2011, c. 5**

This Act amends the Anson Water District charter.

LD 1061 – An Act To Amend the Lien Process for Unpaid Water Rates. (Sponsored by Rep. Welsh of Rockport.) **PL 2011, c. 97**

This Act gives to all water utilities the authority that consumer-owned water utilities have to place liens on property to recover unpaid rates.

LD 1264 – An Act To Improve the Energy Efficiency of Public Buildings and Create Jobs. (Sponsored by Sen. Bartlett of Cumberland County.) **PL 2011, c. XXX**

This Act amends several laws governing energy efficiency design standards and energy efficiency programs to include efforts to manage the electricity load distribution in governmental buildings. Specifically, this Act: (1) adds the consideration of "load management systems" to existing standards for energy savings design considerations and targets for school construction projects; (2) gives school systems increased flexibility in contracting with energy service companies for energy efficiency and "load management" improvements by allowing contracts to exceed \$2 million in value without requiring a competitive bid if all cost-over-benefits risk is assumed by an entity other than the school system; (3) expands the counties' ability to contract with energy service companies to achieve "load management system" improvements; and (4) expands the Maine Municipal Bond Bank's Efficiency Partners Program to include "load management" projects.

LD 1366 – Resolve, To Clarify the Expectation for the 2012 Assessment of Progress on Meeting Wind Energy Development Goals. (Sponsored by Rep. Gifford of Lincoln.) **Resolves 2011, c. 93**

This Resolve directs the Governor's Office of Energy Independence and Security, when developing its required 2011 assessment of progress on meeting the state's wind energy development goals as established and amended in 2008 and 2010, to include the examination of the following: (1) whether statewide permitting standards regulating such issues as wind turbine noise, visual impacts, setbacks and decommissioning, should be applied to wind energy development; (2) the visual impact standards that are currently being applied; (3) the quality of the decommissioning plans and the appropriateness of financial assurance requirements; (4) the time required to complete the permitting process; (5) the methods that might be employed to consider the cumulative impacts of wind energy development on scenic resources; (6) the costs associated with transmission upgrades associated with wind energy development; and (7) the implications of the intermittency of wind power for regional markets and the larger power grids. The report from the Office must be presented to the Legislature by February 1, 2012. The resolve also directs the Department of Health and Human Services to conduct an analysis of the research on the health effects from wind turbines, including effects from noise.

LD 1441 – An Act To Amend the Yarmouth Water District Charter. (Sponsored by Sen. Woodbury of Cumberland County.) **P & SL 2011, c. 8**

This Act amends the charter of the Yarmouth Water District.

LD 1483 – An Act To Amend the Charter of the Sanford

Sewerage District. (Sponsored by Sen. Courtney of York City.) **P & SL 2011, c. 11**

This Act amends the charter of the Sanford Sewer District. Among other amendments to the charter, the Act requires that before proposing any further charter amendments to the Legislature, the trustees of the District must first present the proposed amendments to the Sanford Town Council for review and comment.

LD 1506 – An Act To Remove Obstacles to the Use of Technological Advances for Heating in Multifamily Structures. (Sponsored by Rep. Fitts of Pittsfield.) **PL 2011, c. 300**

This Act removes electric thermal storage space heating equipment or a geothermal heat pump from the general prohibition against the installation of electric space heating equipment in multi-family, residential construction funded with public funds.

LD 1521 – An Act To Amend the InforME Public Information Access Act. (Sponsored by Sen. Thomas of Somerset County.) **PL 2011, c. 321**

This Act amends the laws governing the InforME Public Information Access system to add definitions for "fee service", "portal fee" and "user" for the stated purpose of allowing InforME to maintain and expand access to electronic services. The Act creates a cap on "portal fees" of \$6 plus 3% of total charges for each transaction. The additional percentage, ranging from 0% to 3%, applied to "total charges" for each transaction allows a municipality to pass along the credit card company's merchant fee to the credit card user as opposed to the current arrangement whereby a municipality has to absorb this fee.

LD 1561 – An Act To Create the Nickerson Lake Sewer District. (Sponsored by Sen. Sherman of Aroostook County.) **Emergency Enacted; P & SL 2011, c. 14 (6/09/11)**

This Act establishes the charter of the Nickerson Lake Sewer District in the towns of New Limerick and Linneus, subject to a local referendum vote approving the creation of the District.

LD 1577 – An Act To Amend the Winthrop Utilities District Charter. (Sponsored by Rep. Flood of Winthrop.) **Emergency Enacted; P & SL 2011, c. 12 (6/02/11)**

This Act amends the Winthrop Utilities District's charter to specify that collection of rates and assessments and foreclosure notices are governed by the state laws establishing the sanitary district lien and foreclosure rate collection procedures.

Environment & Natural Resources

LD 159 – An Act To Foster Economic Development by Improving Administration of the Laws Governing Site Location of Development and Storm Water Management. (Sponsored by Sen. Saviello of Franklin County.) **PL 2011, c. 359**

This Act makes a number of changes to the state's Site Location of Development Act (Site Law) and Storm Water management laws as administered by the Department of Environmental Protection (DEP). Among the changes, this Act: (1) provides that all substantive rules governing storm water management promulgated after January 1, 2010 must be "major substantive" rules, which trigger final legislative review before adoption; (2) provides that most substantive rules related to Site Law promulgated after January 1, 2010, except for standards governing blasting, wind energy development and offshore wind power projects, must be "major substantive" rules, also triggering final legislative review before adoption; (3) directs DEP to apply the same standards it applies under the



Representative Sheryl Briggs (Mexico) sponsored a bill, LD 333, that as enacted directs DEP to review its rules and licensing procedures on municipal snow dumps. Also, for the third year in a row, Rep. Briggs gives her name to allow MMA to deliver its weekly Legislative Bulletin to House members during the legislative session.

Natural Resources Protection Act (NRPA) with respect to vernal pools included within a Site Law application, thereby prohibiting DEP from imposing a buffer strip requirement around a vernal pool unless otherwise required under NRPA for another type of protected resource; (4) directs DEP to adopt rules to allow activities in, on or over high and moderate value waterfowl and wading bird habitat to be eligible for the permit-by-rule procedures under the NRPA; and (5) authorizes the Environment and Natural Resources Committee to report out legislation in 2012 relating to high and moderate value waterfowl and wading bird habitat.

LD 180 – Resolve, To Change Rules Concerning Landfill Gas and Odor Management from Routine Technical Rules to Major Substantive Rules. (Sponsored by Rep. Ayotte of Caswell.) **Emergency Passed; Resolves 2011, c. 43 (5/23/11)**

This Resolve changes the status of certain rules being promulgated by the Department of Environmental Protection governing landfill gas and odor management, which in the development stage were perceived as having significant potential financial impacts on certain solid waste disposal facilities. As originally directed by the Legislature, these rules were to be “routine technical” rules, which can be finally adopted at the state agency level. This Act would require the rules to be “major substantive” rules, which must be finally approved by the Legislature.

LD 262 – An Act To Expand Eligibility of Certain Municipal Landfills To Participate in the State’s Remediation and Closure Program. (Sponsored by Rep. Johnson of Greenville.) **PL 2011, c. 435**

This Act provides closure and remediation funding, if available, to municipal landfills that were allowed to remain in operation after January 1, 2000 but were subsequently closed or covered by December 31, 2015. The Act also makes landfills that were licensed prior to or on September 1, 1989 eligible for state cost-share funding to finance closure if a finding is made that the landfill is contaminating groundwater and corrective actions have been unsuccessful.

LD 311 – An Act To Improve Harbor Safety by Clarifying Requirements for Maintenance Dredging Permits. (Sponsored by Sen. Collins of York Cty.) **PL 2011, c. 65**

This Act clarifies that a permit-by-rule for maintenance dredging of a waterway may be allowed only by renewing an individual permit, and that an individual permit for maintenance dredging may be renewed through the permit-by-rule process only if the proposed dredging area was dredged within the last 10 years and that the total amount of material to be dredged does not exceed the amount approved by the individual permit.

LD 333 – Resolve, Directing the Department of Environmental Protection To Evaluate and Amend Its Rules Regarding Snow Dumps. (Sponsored by Rep. Briggs of Mexico.) **Resolves 2011, c. 44**

This Resolve directs the Department of Environmental

Protection to review its rules regarding the licensing of municipal snow dumps and evaluate: (1) the provisions that require certain municipalities to obtain a waste discharge license for the storage of snow; (2) the state’s obligations and interests under the federal Water Pollution Control Act to be delegated to issue permits for snow dump operations; (3) how the existing rules can be amended to expedite the licensing process for municipalities that cannot be exempted from the waste discharge licensing requirement, including by establishing a general permit process or a permit-by-rule process; and (4) municipal licensing fees. The DEP is further directed to amend its snow dump rules in accordance with its evaluation in such a way that the rules will not conflict with the federal Water Pollution Control Act.

LD 387 – An Act To Amend the Natural Resources Protection Act Regarding Coastal Sand Dune Systems. (Sponsored by Rep. Chase of Wells.) **PL 2011, c. 64**

This Act allows the modification of a structure in a coastal sand dune system without a permit issued pursuant to the state’s Natural Resources Protection Act provided: (1) the modified structure is located within a previously-developed impervious area; (2) the footprint of the expansion is no further seaward than the existing building; and (3) the expansion conforms to the standards for expansion of a building as provided in the municipality’s shoreland zoning ordinance.

LD 411 – Resolve, Regarding Legislative Review of Portions of Chapter 305: Permit by Rule Standards, Section 16, Activities in Coastal Dunes, a Major Substantive Rule of the Department of Environmental Protection. (Sponsored by Rep. Hamper of Oxford.) **Emergency Passed; Resolves 2011, c. 27 (4/26/11)**

This Act provides for final legislative review and approval of portions of a rule promulgated by the Department of Environmental Protection, Chapter 305, Permit by Rule standards, Section 16, Activities in Coastal Dunes. Among other elements of the finally-adopted rule, the regulation deals with the standards that apply to a “cobble trapping fence”.

LD 515 – An Act To Review State Water Quality Standards. (Sponsored by Sen. Saviello of Franklin County.) **PL 2011, c. 194**

This Act makes several amendments to the laws governing the standards used by the Department of Environmental Protection to review and issue waste discharge licenses. Among the amendments, this Act: (1) allows for once-a-year mercury testing for facilities that maintain at least five years of mercury testing data; (2) establishes a one-in-10,000 risk level when calculating ambient water quality criteria for inorganic arsenic; and (3) provides that the DEP may use any unallocated assimilative capacity that has been set aside for future growth if using that capacity would avoid exceeding the water quality criteria or the “reasonable potential to exceed ambient water quality” criteria.

LD 552 – An Act To Exclude Cupolas from the Measurement of Height for Structures in the Shoreland Zone. (Sponsored by Rep. Harvell of Farmington.) **PL 2011, c. 231**

This Act allows a municipality’s shoreland zoning ordinance to exempt a qualifying cupola, dome or widow’s walk from the structural height limitation standards of the ordinance as long as the legally existing conforming structure is not located in a resource protection or stream protection district and the cupola-type structure: (1) does not extend beyond the exterior walls of the existing structure; (2) has a floor area of 53 square feet or less; and (3) does not increase the existing height of the building by more than seven feet.

LD 721 – An Act To Extend the Use of Underground Storage Tanks. (Sponsored by Sen. Courtney of York Cty.) **PL 2011, c. 276**

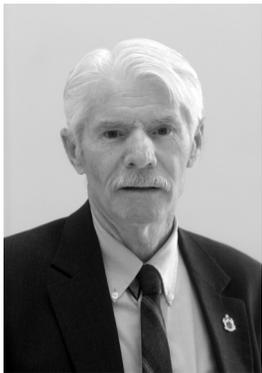
This Act allows a double-walled underground oil storage tank that is in service to stay in the ground for up to 10 years beyond the expiration of its warranty provided a precision test is conducted during the last year of the tank's warranty period determining the integrity of the tank and during each year from the fifth to the tenth year after the expiration of the warranty. Results of these precision tests must be submitted by the owner of the tank to the commissioner of the Department of Environmental Protection. This Act also directs the DEP to amend its rules to allow the retrofitting of single-walled underground storage tanks with secondary containment systems prior to the expiration of the warranty period and to allow the upgrading of related piping. The Act also extends the period of time, from 12 months to 24 months, before it is necessary to properly dispose of an underground oil storage tank that has been taken out of service. Single-walled oil storage tanks out of service for more than 24 consecutive months cannot be returned to service under the terms of this Act. Double-walled oil storage tanks out of service for more than 24 months may only be returned to service with the written approval of the DEP commissioner.

LD 862 – Resolve, Directing the Department of Environmental Protection To Amend Its Rules Governing the Length of Time Certain Permits Are Valid. (Sponsored by Sen. Collins of York Cty.) **Resolves 2011, c. 46**

This Resolve directs the Department of Environmental Protection to amend its rules governing the protection of natural resources, site location of development and storm water to provide that permits issued under these programs are valid for four years after issuance and that permit holders have seven years to complete a permitted project.

LD 981 – An Act To Increase Recycling Jobs in Maine and Lower Costs for Maine Businesses Concerning Recycled Electronics. (Sponsored by Rep. Walsh Innes of Yarmouth.) **Emergency Enacted; PL 2011, c. 250 (6/08/11)**

This Act makes a number of changes to the laws governing the state's "product stewardship" program which involves establishing drop-off centers for certain electronic equipment and florescent lighting tubes which are then picked up by the product manufacturers for recycling. The drop-off centers are typically located at municipal transfer stations and recycling centers. Among the several amendments to the law, this Act expands the entities that are allowed to drop off the electronic items at the drop-off centers. Under current law, only "households" were allowed to participate in the municipal collection programs. Under this Act, the allowed participants are expanded to include households, businesses and non-profit organizations with 100 employees or less, and public schools. A limit is established so that no entity can drop off more



Representative Bernard Ayotte of Caswell helped out the municipal community in his sponsorship of a bill that makes certain solid waste management regulations being developed by the Department of Environmental Protection "major substantive" rules. With that designation, the financial impact on local government will get a more thorough public airing through the legislative process before the rules are finally promulgated.

than seven electronic devices at a time to a municipal drop-off center unless that limit is waived by the municipality. This Act was not identified as a state mandate because providing a municipal drop-off program is not mandatory, although many municipalities will continue to participate in order to provide a convenience for their residents.

LD 1015 – An Act To Reduce Unnecessary Reporting Requirements Related to Natural Resources. (Sponsored by Rep. Duchesne of Hudson.) **PL 2011, c. 120**

This Act repeals a requirement that the Commissioner of Environmental Protection (DEP) annually conduct a review related to its permit-by-rule systems and make recommendations concerning additional categories of such permits to the Board of Environmental Protection. The Act also repeals several DEP reporting requirements, including the submission of reports to the Legislature on the: (1) effects of license fee increases on Department efficiency and license and permit processing times; (2) impacts of local shoreland zoning ordinances; (3) evaluations of whether the state should continue to implement and enforce low-emission vehicle standards; (4) levels of MTBE in gasoline brought into the state; and (4) progress made with meeting the in-stream color pollution standards. The Act also exempts agricultural producers from the water withdrawal reporting program.

LD 1022 – An Act To Amend the Law Concerning Overboard Discharge Systems. (Sponsored by Rep. Tilton of Harrington.) **PL 2011, c. 121**

This Act amends the law governing overboard discharge systems and the obligation under current law to review the possibility of installing a technologically proven alternative septic disposal system to replace the overboard discharge whenever the affected property is being sold or transferred. The amendments to the current requirements are: (1) any application to the Department of Environmental Protection for a transfer of the overboard discharge license must be made no later than two weeks after the date of transfer; (2) the alternative system, if identified as technologically proven, must be installed within 180 days of the transfer rather than within 90 days; and (3) the new owner of the property may apply for and shall receive a waiver of the requirement to install an alternative system if the new owner's annual income is less than \$25,000.

LD 1108 – An Act To Modify the Requirement To Replace Trees Cut Down in Violation of Local Laws. (Sponsored by Rep. Moulton of York.) **PL 2011, c. 228**

Current law requires a person who cuts down trees or understory vegetation in violation of the shoreland zoning law and local ordinance to replace the trees or vegetation removed with trees or vegetation of a similar size and species, to the extent available and feasible. This Act amends that requirement to provide more flexibility in the remediation standard regarding tree replacement. Specifically, the court must order a remediation plan that requires at a minimum at least 50% of the basal area illegally cut to be replanted with trees of varying sizes and species such that the visual impact from cutting will be remediated and the previous tree canopy will be restored within a reasonable time period. The Act also requires that the reforestation plan submitted to the municipality must include a five-year management plan.

LD 1387 – An Act To Restore Exemptions in the Natural Resources Protection Act. (Sponsored by Rep. Cebra of Naples.) **PL 2011, c. 205**

This Act amends the general exemption provided in the state's Natural Resources Protection Act (NRPA) when repairing or replacing a road culvert carrying a stream that qualifies for NRPA protection. Under the Act, an exemption from NRPA

permitting is provided as long as: (1) certain erosion control measures are taken; (2) the repaired or replaced culvert does not block fish passage; (3) if a replacement, the culvert is installed to match the natural stream grade to avoid drops and perching; and (4) if a replacement, the culvert is embedded by the greater of one foot or 25% of the culvert's diameter, as site conditions allow. This Act also clearly separates the road crossing standard in NRPA from the "maintenance and repair" standard regarding structures (i.e., piers, wharves, permanent docks, etc.).

LD 1398 – An Act To Amend the Laws Administered by the Department of Environmental Protection. (Sponsored by Rep. Hamper of Oxford.) **Emergency Enacted; PL 2011, c. 206 (6/03/11)**

This Act makes dozens of changes to the state's environmental protection laws. Among the changes pertinent to municipal government, the Act limits the liability of municipalities that acquire oil storage facilities through tax delinquency proceedings. The Act also amends the wellhead protection laws to: (1) extend the siting restrictions on automobile maintenance shops to include non-commercial automobile maintenance and repair facilities, such as public works garages; (2) require anyone replacing a grandfathered underground oil storage tank within a wellhead protection zone to formally notify both the commissioner of the Department of Environmental Protection and the municipal code enforcement officer of the intent to replace the tank within 30 days after removal; and (3) require the person replacing such a tank to commence construction of the replacement within 2 years after removal of the existing facility.

LD 1434 – An Act To Streamline the Waste Motor Oil Disposal Site Remediation Program. (Sponsored by Rep. Martin of Eagle Lake.) **Emergency Enacted; PL 2011, c. 211 (6/03/11)**

This Act implements the recommendations of a stakeholder group convened by the Department of Environmental Protection with respect to the waste motor oil disposal site remediation program and the Plymouth Waste Oil Loan Program. The Act clarifies the premium charges that apply to the sale of motor oils and re-directs some of the revenue received in those funds to reimburse motor oil dealers for premiums paid on oil sold or distributed out of state. The Act also identifies other recipients of reimbursements, such as the Maine National Guard and the DEP's Uncontrolled Sites Fund. The Act also establishes that as soon as \$3.5 million is paid to the DEP from the Waste Motor Oil Revenue Fund, the department is directed to release from liability any legally responsible person at the Ellsworth, Casco and Presque Isle waste motor oil disposal sites.

LD 1567 – Resolve, To Authorize the State To Acquire a Landfill in the Town of East Millinocket. (Sponsored by Sen. Saviello of Franklin Cty.) **Emergency Passed; Resolves 2011, c. 90 (6/17/11)**

This Resolve provides that the State, through the State Planning Office, shall acquire the so-called Dolby Landfill sites in East Millinocket by donation, conditioned on the sale of the pulp and paper mills. The Resolve preempts the municipality where the landfill is located from exercising any regulatory authority over the landfill, but establishes a seven-member advisory committee if the type of waste allowed to be disposed of at the site changes from what is currently permitted. The ad-

visory committee members would be appointed by the municipal officers in East Millinocket and Millinocket and they would: (a) review proposed contracts with potential landfill operators; (b) hold public meetings regarding the transfer of landfill ownership operations and management; and (c) generally serve as a liaison between the state, the operator of the facility, and the two communities.

Health & Human Services

LD 105 – Resolve, Regarding Legislative Review of Chapter 13: Municipal Service Fee, a Major Substantive Rule of the Department of Health and Human Services. (Sponsored by Rep. Strang Burgess of Cumberland.) **Emergency Passed; Resolves 2011, c. 21 (4/15/11)**

This Resolve gives final legislative review and approval to rules adopted by the Maine Center for Disease Control's (CDC) Office of Vital Statistics requiring municipalities on a monthly basis to remit 40% of the revenue generated by the increase in local vital record fees enacted by the Legislature and implemented on July 12, 2010. Those assessments are \$2 for each certified copy of a birth, marriage or death certificate sold by the municipality; 40 cents for each additional certified copy of a birth, marriage or death certificate of the same record, sold at the same time; \$4 for each marriage license issued; and \$6 for each disposition of human remains permit recorded.

LD 258 – An Act Relating to Vital Records. (Sponsored by Rep. Sanderson of Chelsea.) **PL 2011, c. 58**

A law was enacted during the last legislative session that restricted general access to certain vital records (e.g., birth, marriage and death certificates) unless the person requesting the record was a spouse, domestic partner, descendant, parent, geneologist or lawyer for the person who was the subject of the record, or the records were over 100 years old. This Act loosens those restrictions by making the following changes to the law governing the release and inspection of vital records. The Act:

(1) clarifies that the custodians of vital records must allow for the inspection of such records from qualified requestors, or issue certified or noncertified copies of those records; (2) establishes the list of qualified requestors to include the person who is subject of the record, and that person's spouse, domestic partner, descendant, parent, guardian, grandparent, sibling, stepparent, stepchild, aunt, uncle, niece, nephew, mother-in-law, father-in-law, personal representative, attorney, agent or attorney for that person's agent, or court designee; (3) allows any person to request and be provided a noncertified copy of a person's vital records after 75 years from date of birth, 50 years from the date of a fetal death, 25 years from the date of death, and 50 years from the date of marriage or registration of domestic partnerships; and (4) provides that all vital records created prior to 1892 are open to the public without restrictions, and that all persons may purchase a copy on municipal letterhead or a non-certified copy of such documents.

LD 424 – An Act To Revise the Laws Governing the Licensure of Public Water System Operators. (Sponsored by Sen. Goodall of Sagadahoc Cty.) **PL 2011, c. 45**

This Act makes several technical and minor substantive changes to the laws governing the licensing of public water system operators. Among those changes, the Act increases the limit for the various water system operator fees (e.g., examina-



Senator Earle McCormick (Kennebec County) is to be commended for the way he co-chaired the Health and Human Services Committee. As a result of his leadership, the Committee was able to report out unanimous reports on several divisive issues. Thanks are also owed to Sen. McCormick for allowing the weekly Legislative Bulletin to be distributed to the members of the Senate.

tion, licensure, biennial renewal, reinstatement, etc.) to \$95 for any one purpose.

LD 869 – An Act To Clarify the State’s Authority under Public Health Laws for Municipal Inspections of Establishments. (Sponsored by Sen. McCormick of Kennebec County.) **PL 2011, c. 295**

This Act allows only those municipalities that have been delegated authority by the Department of Health and Human Services to inspect certain establishments that serve food, including camping areas, recreational camps, youth camps and restaurants and other eating establishments. A municipality that has not been delegated authority may not license or inspect such establishments.

LD 1177 – An Act To Make Minor Changes to Municipal Health Inspection Activities. (Sponsored by Rep. Sanborn of Gorham.) **(Mandate) PL 2011, c. 193**

This Act makes a number of clarifying and minor substantive changes to the law governing the municipal licensing and inspection of campgrounds, recreational camps, youth camps and eating establishments as may be delegated by the Department of Health and Human Services (DHHS). Among those changes, the Act establishes separate and non-overlapping definitions of “eating and lodging place” and “lodging place”. Also, the Act increases the license fee that may be charged to a licensee by a delegated municipality with respect to the DHHS mailing and handling charges from \$60 to \$100.

LD 1271 – An Act To Require Use of the Electronic Death Registration System. (Sponsored by Sen. McCormick of Kennebec County.) **PL 2011, c. 371**

This Act provides that beginning July 1, 2012, death certificates filed by funeral directors and other persons required to file by law may be filed using the electronic death registration system maintained by the State Registrar of Vital Statistics.

LD 1296 – An Act To Amend the Maine Medical Use of Marijuana Act To Protect Patient Privacy. (Sponsored by Rep. Sanderson of Chelsea.) **PL 2011, c. 407**

This Act sweeps through the Maine Medical Use of Marijuana Act and makes dozens of changes. Among those changes most pertinent to municipal government, the Act retains the language in existing law that expressly permits a municipality from limiting the number of dispensaries and enacting reasonable regulations applicable to dispensaries, but then prohibits a municipality from adopting any ordinance that is duplicative or more restrictive than the provisions of the Maine Medical Marijuana Act. Except as may be necessary for an ongoing criminal or civil investigation, the Act also prohibits a law enforcement officer from seizing marijuana in the lawful possession of a qualifying patient, primary caregiver or registered dispensary, and establishes the procedures and timeframes for returning improperly seized marijuana to its owner. Other limits and qualifications of law enforcement operations with respect to qualifying patients, caregivers and dispensaries are included in the Act.

Inland Fisheries & Wildlife

LD 108 – An Act To Amend the Fees for Infant Lifetime Licenses. (Sponsored by Rep. Harvell of Farmington.) **PL 2011, c. 268**

This Act reduces the fees by approximately 55% on all infant lifetime licenses for nonresidents for hunting, fishing, archery hunting, trapping, and combinations. The current infant lifetime fishing license for a nonresident, for example, of \$450 is reduced to \$200. The reduction in fees applies between

December 1, 2011 and March 1, 2015. The fiscal impacts of this reduction in fees must be reported to the Legislature by the Commissioner of the Inland Fisheries and Wildlife by January 15, 2015.

LD 112 – An Act To Discourage Illegal Dumping in the State. (Sponsored by Rep. Shaw of Standish.) **PL 2011, c. 208**

This Act amends the law governing the penalties to be applied to a person convicted of illegal dumping or littering, with a focus on significant dumping or littering violations which under current law is set at disposals of 15 pounds of material or 27 cubic feet of litter. Specifically, this Act: (1) increases the minimum fine of a first offense for that level of violation from \$200-\$500 to a minimum of \$500; (2) increases the minimum fine of a subsequent offense to \$2,000; (3) requires the court to award “treble damages” to the party sustaining damages related to the dumping/littering or \$200, whichever is greater, as well as any of the injured party’s court costs and attorney fees; (4) requires the violator to perform a minimum of 100 hours of public service and, when practical, to remove the disposed material; (5) authorizes the court to suspend the violator’s driver’s license for a period between 30 days and one year unless required for the person to operate a business or for the primary source of employment; (6) requires the court to suspend all hunting and fishing licenses and recreational vehicle registrations for a period between 30 days and one year; and (7) authorizes the court to suspend any other license, permit, registration or certification issued to the violator by the state or a municipality unless required for the person to operate a business or for the primary source of employment. The Act also increases the required financial penalty for a subsequent violation of the less significant illegal dumping/littering violation (i.e., less than 15 pounds of material and 27 cubic feet of litter) to between \$500 and \$1000.

LD 175 – An Act To Create a Short-term All-terrain Vehicle Registration System. (Sponsored by Rep. Gilbert of Jay.) **PL 2011, c. 116**

The current fees for registering an ATV are \$33 for a resident and \$68 for a non-resident. This Act retains the \$68 fee for non-residents for a one-year registration and establishes a short-term registration option for a non-resident. The fee for the short-term option is \$53 for a seven consecutive day registration.

LD 634 – An Act To Allow a Person To Designate Information Submitted for a Hunting or Fishing License as Confidential. (Sponsored by Rep. Crockett of Bethel.) **PL 2011, c. 185**

This Act allows an applicant for a hunting or fishing license to indicate that the applicant’s e-mail address, if provided in an application, is confidential. If indicated, the e-mail address must be kept confidentially except from the Department of Inland Fisheries and Wildlife personnel and in certain law enforcement circumstances.

LD 641 – An Act To Allow a Portion of Snowmobile Registration Fees To Be Used for the Repair of Trail-grooming Equipment. (Sponsored by Rep. Davis of Sangerville.) **PL 2011, c. 129**

This Act resolves a conflict in legislation enacted in 2010 regarding snowmobile registration fees for nonresidents and the permitted uses of some of those fees collected by the state. In resolving the conflict, the Act eliminates the \$58 10-consecutive-day nonresident registration category that was created last year. This Act also authorizes funds to be used to assist any entity that has a snowmobile trail grooming contract with the

Bureau of Parks and Lands to repair and overhaul trail grooming equipment.

LD 993 – An Act To Provide Limited Reciprocity for Nonresidents Operating Snowmobiles in This State. (Sponsored by Rep. Timberlake of Turner.) **PL 2011, c. 437**

This Act provides that the Commissioner of Inland Fisheries and Wildlife may establish a three-day period, including two weekend days, during which a nonresident may snowmobile in the state without the snowmobile being registered in Maine if the state of the operator's residency allows a similar or greater opportunity for non-registered sledding in that state. The opportunity to provide this type of "reciprocity" is repealed on October 1, 2013.

LD 1084 – An Act To Amend Certain Provisions of Maine Fish and Wildlife Laws. (Sponsored by Sen. Martin of Kennebec Cty.) **Emergency Enacted; PL 2011, c. 253 (6/08/11)**

This Act makes numerous changes to Maine's fish and wildlife laws, most of which do not directly affect municipal government. Among the changes in the Act that relate in some way to local government, the Act: (1) requires persons operating ATVs who are required to have completed a training course to provide proof of having completed that course upon request by a law enforcement officer; and (2) reduces the fee a nonresident must pay to exchange a 15 day nonresident fishing license for an annual license to the difference between the 15 day license and the annual license and \$2 to the clerk or issuing agent.

Insurance & Financial Services

LD 1326 – An Act To Allow School Administrative Units To Seek Less Expensive Health Insurance Alternatives. (Sponsored by Rep. Sarty of Denmark.) **PL 2011, c. 395**

This Act requires health insurers to provide to a requesting school committee or to a municipality within the school system information about the experience and claims history of the employees of that particular school system as a member covered under a group policy. The Act also allows school systems to offer group self insurance health and dental programs and to enter into cooperative agreements with other school systems and municipalities to provide those programs, provided such group self-insurance programs are approved by the Superintendent of Insurance as a "multiple-employer welfare arrangement."

Judiciary

LD 281 – An Act To Create a 6-year Statute of Limitations for Environmental Violations. (Sponsored by Sen. Snowe-Mello of Androscoggin Cty.) **PL 2011, c. 350**

This Act requires enforcement actions for violations of environmental laws to be brought by the Department of Environmental Protection (DEP) or the Attorney General (AG) within six years of whichever of the following last occurs: (1) the DEP or the AG discovers the act or omission giving rise to the violation; (2) the DEP or the AG identifies the party responsible for the violation; or (3) the last day of a continuing violation.

LD 744 – An Act To Amend the Definition of "Service Animal" To Conform with Federal Law. (Sponsored by Rep. Malaby of Hancock.) **PL 2011, c. 369**

This Act applies the existing definition of "service animal" in the Maine Human Rights Act to the state's fair housing statutes and applies the Department of Justice's definition of "service animal" to the state laws dealing with the civil rights of persons in places of public accommodation. Unlike the MHRA definition of "service animal", the federal definition includes only dogs and does not include dogs whose function is to prevent crime or provide emotional support or companionship.

LD 939 – An Act To Enhance Mandated Reporting and Prosecution of Elder Abuse, Neglect and Exploitation. (Sponsored by Rep. Nass of Acton.) **PL 2011, c. 291**

This Act expands the list of people that are mandated to report suspected cases of elder abuse to the Department of Health and Human Services. Among the mandatory reporters added to the list by this Act are persons providing transportation services as a volunteer or employee of an agency, business or other entity, whether or not the services are provided for compensation.

LD 1005 – An Act To Clarify the Standard of Proof for Traffic Infractions. (Sponsored by Rep. Moulton of York) **PL 2011, c. 156**

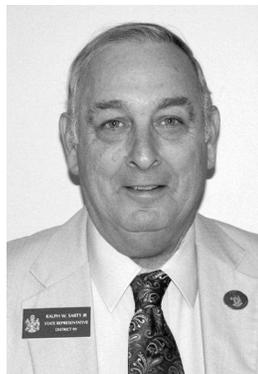
This Act establishes that the standard of proof for a traffic adjudication is based on a preponderance of the evidence.

LD 1082 – An Act Concerning the Protection of Personal Information in Communications with Elected Officials. (Sponsored by Rep. Nass of Acton.) **PL 2011, c. 264**

This Act amends Maine's Freedom of Access Act to provide that certain information in communications between constituents and elected officials is not a public record, including: (1) any medical information about an individual; (2) credit or financial information; (3) information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family; or (4) an individual's social security number. The Act also directs the Right to Know Advisory Committee to examine the benefit of public disclosure of elected officials' e-mails and other records balanced with the availability of technology and other systems necessary to maintain the records and provide public access. The Committee's findings and recommendations must be included in its annual report to the Legislature which must be submitted by January 15, 2012.

LD 1154 – An Act To Implement the Recommendations of the Right To Know Advisory Committee. (Sponsored by Rep. Nass of Acton.) **(Mandate) PL 2011, c. 320**

This Act, identified as a "state mandate", makes a number of amendments to Maine's Freedom of Access Act (FOAA) as recommended by the "Right to Know Advisory Committee". The amendments affecting municipal government include: (1) a clarifying paragraph in the opening statute section laying out FOAA policy explaining that Maine's Right to Know law "does not prohibit communications outside of public proceeding between members of a public body unless those communication are used to defeat the purposes of the law"; (2) exempting all social security numbers from the definition of a "public record"; and (3) adding a new requirement that public bodies keep records of their meetings if the public body is required to give notice of the meeting and is not purely advisory in its authority. The minimally required contents of the minutes include the date, time



Representative Ralph Sarty was influential in the opposition to a bill that would have amended the definition of "use" under the Maine Tort Claims Act (LD 1256), which would have effectively exposed municipalities to more claims under the Act due to negligent acts by contracted parties. His opposition to the bill at both the Committee level and on the floor of the House was instrumental in saving municipalities and their property taxpayers from the increased costs associated with the added litigation.

and place of the meeting, the members of the body holding the meeting as either present or absent, and all motions and votes taken. If the vote is taken by "roll call", the record must reflect the individual member's votes. An audio, video or other electronic recording of the public proceeding is considered an acceptable record.

LD 1365 – An Act Regarding Protection Orders. (Sponsored by Rep. Hinck of Portland.) **PL 2011, c. 265**

This Act makes several changes to the law governing the prosecution of domestic violence cases. Among those changes, the Act requires the Maine Criminal Justice Academy to adopt a model policy by June 1, 2012 that requires law enforcement agencies to serve protection from abuse orders on defendants as quickly as possible, and requires law enforcement agencies to subsequently adopt such policies.

LD 1473 – An Act To Clarify Rights-of-way Laws. (Sponsored by Rep. Weaver of York.) **PL 2011, c. 312**

This Act gives a person who owns land in a subdivision that abuts a proposed, unaccepted way ownership of the entire width of the right of way, rather than to just the center line, if the land on the opposite side of the way is not part of the subdivision and certain other circumstances are met.

LD 1477 – Resolve, To Review Issues Dealing with Regulatory Takings. (Sponsored by Rep. Cushing of Hampden.) **Resolves 2011, c. XXX**

This Resolve establishes an 11-member committee charged with reviewing the concept of implementing a compensation system for regulatory takings in this state. The committee membership is made up of five legislators, one member representing large-parcel private property owners, one member representing municipal government, one member representing conservation interests, one member representing the business sector, one member representing private attorneys who have experience in the subject area of takings law, and the Attorney General or designee. The duties of the committee include reviewing at least 16 defined informational sources or issues associated with establishing a regulatory takings compensation system, including: (1) previous reports on the subject and the existing Land Use Mediation program; (2) regulatory takings legislation in other states; (3) specific instances of where regulations have both positively and negatively affected property values; (4) how to define "land use regulation" in this context; (5) what level of value loss should trigger a compensation requirement; (6) what governments should be subject to the compensation requirements; (7) how compensation requirements should be allocated among governments in the circumstance of cumulative regulatory impacts; (8) how to establish fair market value and determine valuations impacts; and (9) how to administer the compensation system in an efficient and timely manner. The committee's report and recommendations must be submitted to the Legislature by December 7, 2011.

LD 1531 – An Act To Amend the Maine Human Rights Act Regarding Accessible Building Standards. (Sponsored by Sen. Hastings of Oxford Cty.) **PL 2011, c. 322**

This Act amends the Maine Human Rights Act with respect to compliance with Americans with Disabilities Act (ADA) building accessibility standards. Specifically, this Act establishes March 15, 2012 as the date after which all new or substantially reconstructed public accommodations will have to comply with the 2010 ADA Standards for Accessible Design, as adopted by the federal Department of Justice. The Act adjusts the dollar threshold of construction or alterations that trigger barrier-free certification from \$50,000 to \$75,000 and provides to all affected entities, public or private, a potential waiver for structural impracticability by petitioning the State Fire Marshall's Office.

The Act also authorizes the Legislature's Judiciary Committee to report out legislation in 2012 after reviewing and comparing the building accessibility standards included in this Act with the standards as required under federal law.

Labor, Commerce, Research & Economic Development

LD 375 – Resolve, Directing the Commissioner of Professional and Financial Regulation To Convene a Working group To Review the Laws and Rules Governing Boilers. (Sponsored by Rep. Gillway of Searsport.) **Emergency Passed; Resolves 2011, c. 45 (5/23/11)**

This Resolve directs the Commissioner of the Department of Professional and Financial Regulation to convene a working group with the Board of Boilers and Pressure Vessels as well as other interested parties to review the current lack of uniformity in the laws and rules governing boilers, to develop recommendations to resolve conflicts and improve the regulation of boilers, and to consider options for expanding inspections of boilers located in public places. The report of the working group must be submitted to the Legislature by January 15, 2012. Under current law, all regular hot water boilers over 200,000 BTUs are exempt from state boiler inspection requirements except the boilers located in municipal and school buildings.

LD 516 – An Act To Amend Maine Law Regarding Employment Practices for Certain Minors. (Sponsored by Sen. Plowman of Penobscot Cty.) **PL 2011, c. 174**

This Act amends the law governing the maximum number of hours and how late into the evening an employer can allow a minor under the age of 18 who is enrolled in school to work. The limits in current law are 20 hours in any week that school is in session, four hours in any day when school is in session (except for the last scheduled day of the week), and no later than 10:00 p.m. on a school night. This Act allows for 24 hours of work a week, up to six hours a school day, and no later than 10:15 p.m.

LD 584 – An Act To Appropriate Funds for the Maine Downtown Center. (Sponsored by Sen. Martin of Kennebec Cty.) **PL 2011, C. XXX**

This Act appropriates \$25,000 in FY 2013 to support the Main Street programs administered by the Maine Downtown Center.

LD 816 – An Act To Clarify Provisions of the Law Concerning Municipal Inspections of Buildings. (Sponsored by Rep. Blodgett of Augusta.) **PL 2011, c. 94**

In order to create consistency among several other statutes, this Act replaces "inspector of buildings" with "building official" in the statute governing the issuance of occupancy permits for municipalities with populations greater than 2,000.

LD 1117 – Resolve, To Require the Commissioner of Labor To Convene a Stakeholder Group To Determine the Most Appropriate Amount of Time an Employer May Employ an Employee without Being Subject to Unemployment Compensation Requirements.



Representative James Gillway (Searsport) was thoughtful in his sponsorship of the school and municipal boiler inspection bill, LD 375, resulting in a resolve that directs certain stakeholders to more closely examine this issue so that the state boiler inspection program may be more equitably applied to all buildings of public accommodation.

(Sponsored by Rep. Fredette of Newport.) **Resolves 2011, c. 85**

This Resolve directs the Commissioner of the Department of Labor to convene a stakeholder group of business interests to determine the most appropriate amount of time an employer may employ an employee without the employer being made subject to unemployment compensation requirements. The Commissioner's report on the study and any recommendations must be submitted to the Legislature by January 15, 2012.

LD 1127 – An Act To Amend the Authority of the Washington County Development Authority. (Sponsored by Rep. Parker of Veazie.) **Emergency Enacted; PL 2011, c. 136 (5/25/11)**

This Act grants to the Washington County Development Authority the same authority given to the Midcoast Regional Redevelopment Authority to borrow money and issue bonds.

LD 1241 – An Act To Exempt Employers Subject to Federally Mandated Drug and Alcohol Programs from Maine Substance Abuse Program Laws. (Sponsored by Rep. Bickford of Auburn.) **PL 2011, c. 196**

This Act removes a restriction in current law so as to allow employers subject to a federally mandated substance abuse testing program to extend the mandated program to the employer's entire workforce and its independent contractors. The Act also directs the Maine Department of Labor to prepare a report and recommendations covering at least three issues related to Maine's law governing employers' substance abuse testing programs: (1) initiating a substance abuse testing program when an employee has caused a serious accident; (2) requiring supervisory personnel to participate in substance abuse testing programs as well as non-supervisory employees; and (3) eliminating the requirement that the employer provide an opportunity and pay for a substance abuse assistance program when an employee receives a positive result on a substance abuse test. The Department of Labor's report and recommendations must be submitted to the Legislature by January 15, 2012.

LD 1253 – An Act To Amend the Laws Governing the Enforcement of Statewide Uniform Building Codes. (Sponsored by Sen. Saviello of Franklin County.) **Emergency Enacted; PL 2011, c. 365 (6/16/11)**

This Act makes several amendments to the laws governing the adoption, enforcement and implementation of the uniform statewide building code known as MUBEC (Maine Uniform Building and Energy Code). The Act: (1) expressly authorizes municipalities to enact ordinances pertaining to the enforcement of MUBEC; (2) replaces outdated language regarding the local appeal process related to building inspection decisions so that absent any ordinance procedures to the contrary MUBEC appeals may be conducted either by the municipal officers or the municipality's board of appeals; (3) specifies that enforcement actions undertaken by certain municipal employees with respect to building code violations must be authorized by the employing municipality; (4) allowing building officials to serve as third-party inspectors provided they are offering that service outside of their geographic jurisdiction as a building official; (5) allows municipalities to adopt swimming pool safety standards which are found in an appendix of the building code rules that has not been incorporated into the statewide uniform code; (6) expands the current list of buildings that are exempt from MUBEC to include warehouses or silos used to store harvested crops; (7) exempts "seasonally restricted cottages" from the MUBEC code's energy-related standards; and (8) requires MUBEC to incorporate the residential basement wall insulation standard under the 2006 edition of the International Energy Conservation Code. The Act also directs the Technical

Building Code and Standards Board to review and provide recommendations to the Labor, Commerce, Research and Economic Development Committee on: (a) the reasonableness of the "seasonal cottage" exemption that sunsets in one year and the agricultural building exception; (b) the adequacy of the 2006 basement insulation standard that sunsets in one year; (c) the availability of training resources for builders; (d) the status of updating the modular construction code and harmonizing it with MUBEC; (e) the suitability of applying MUBEC to construction projects located in the unorganized territories; and (f) whether radon and internal air quality standards should be part of MUBEC or not. (see MUBEC-related article on pg. 12)

LD 1342 – An Act To Amend the Washington County Development Authority. (Sponsored by Rep. Tilton of Harrington.) **PL 2011, c. 148**

This Act allows the Washington County Development Authority to enter into a memorandum of understanding with a municipality to perform the function of a local development corporation.

Marine Resources

LD 210 – An Act Regarding The Saltwater Recreational Fishing Registry. (Sponsored by Sen. Trahan of Lincoln Cty.) **Emergency Enacted; PL 2011, c. 421 (7/6/11)**

This Act makes a number of amendments to the saltwater recreational fishing registry system enacted in 2010. Among the changes to the system, this Act: (1) allows all Maine residents to fish in ocean waters on Memorial Day weekend, July 4th or Labor Day weekend without registering; (2) establishes the fee of \$2 that an agent may charge to a person registering for the saltwater registry if the only transaction conducted by that person is that registration; (3) allows a \$1 agent fee to be charged to a person registering for the saltwater registry online or at the Department of Marine Resources (DMR); (4) exempts from registration anyone who obtains a freshwater fishing license who indicates as part of that process whether he or she engaged in recreational saltwater fishing during the prior year; (5) provides a number of other exemptions from the saltwater fishing registration requirement; (6) provides that a registration issued is valid until December 31 of the year in which it is issued; and (7) authorizes DMR to promulgate rules to terminate the requirement for anyone to register in the saltwater fishing registry program if the Marine Recreational Information Program administered by the U.S. government does not receive funding to conduct the surveys and perform the data analysis that is expected to be accomplished.

LD 992 – An Act To Amend the Depuration Laws. (Sponsored by Sen. Langley of Hancock Cty.) **PL 2011, c. 175**

This Act repeals and replaces the laws governing how "depuration" harvesting of clams and other shellfish may be conducted. Under this Act, soft-shelled clam depuration activities within a municipality that has a municipal shellfish conservation program are guided by the following standards: (1) the Commissioner of the Department of Marine Resources is authorized to close a shellfish growing area for municipal pollution abatement activities according to certain guidelines; (2) at the request of the municipality, the Commissioner may allow soft shelled clam depuration harvesting in closed areas; (3) the person holding a depuration certificate shall engage commercial harvesters holding valid licenses, and if there are insufficient municipally licensed commercial harvesters, the certificate holder may supplement with other commercial harvesters licensed in the state; and (4) the depuration certificate holder must maintain a management plan on file with the

The Municipal RISK MANAGER

JULY 2011

A Publication of the Maine Municipal Association

RMS Awards Safety Grants

The Maine Municipal Association has been awarding safety grants to members of their Workers Compensation Fund since 1999. The grant program has assisted municipalities by bestowing **over \$2,000,000 to their safety programs** through the funding of Safety Enhancement Grants and Scholarship Grants.

The Safety Enhancement Grant and Scholarship Grant Programs offer financial incentives to members of the Maine Municipal Association Workers Compensation Fund. Safety Enhancement Grants are used to purchase safety equipment or services that assist in reducing the frequency and severity of workplace injuries. Ed MacDonald, Loss Control Manager for Maine Municipal Association, advises that the program received **131** applications for the May 2011 grant period, and that **\$151,031.52** was awarded to **104** Members of the Workers Compensation Fund.

The Grant Recipients have put their funds to use by purchasing such equipment as Gas Detectors, Ergonomics Devices, Lockout / Tagout Station, Training Aids, Material Handling Equipment, as well as Traffic Control Signage to assist in reducing the frequency and severity of workplace injuries. For a full listing of grant recipients and the equipment to be purchased, please see the RMS website. Grants are awarded in May and October of each year. To be eligible for the **May awards**, your application must be received between **October 1**

and April 30. Applications for the **October** awards must be received between **May 1 and September 30.**

For more information about any of the Maine Municipal Association Risk Management Service programs,

including Safety Enhancement Grants eligibility and applications, please visit our website at www.memun.org and click on the Risk Management Services link, or call us at 1-800-590-5583. 🏠

Risk Management Services at the 2011 "Highway Congress"

On June 2, 2011 the Risk Management Services (RMS) Loss Control Department staffed a booth at the MCAPWA 20th Annual Highway Congress. RMS participates in this event annually as one of the six "Time Out for Training" stations that are located throughout the Skowhegan Fairgrounds.

The training station topic provided by RMS Loss Control staff focused on "Distracted Driving" and featured

informational displays, a participant quiz and a drawing. The lucky winners of our drawing for a "Bag of Stuff" were Orrin Parker of Warren and Ryan Bradstreet from Winslow.

In spite of the rain and wind the booth had many visitors. As always, we enjoy participating in the Annual MCAPWA Highway Congress and seeing all of the municipal employees who are in attendance. 🏠



One is the Loneliest Number

It's true that there is safety in numbers, and lone workers can be at greater risk for accident or injury. Who is a lone worker? As a general rule, a lone worker is anyone who cannot be seen or heard by others while doing his or her job and who does not expect contact with any other person. The lone worker can be an office worker in a storage room, a landfill attendant, a custodian cleaning the school in the evening or a plow truck driver. In order to protect these workers, employers need to assess both the job being performed and the worker assigned to the job, and a check-in method should be established to ensure the safety of the remote worker.

Assess the Job

Some points to consider when assessing the job include the following:

1) How long will the employee be working alone? Determining what is a reasonable length of time for the employee to be alone will vary depending on the job, the time of day, weather conditions if the employee will be outdoors, and

other conditions that may affect the outcome.

2) What forms of communication are available? Decide if voice communication is suitable for check-in procedure or whether a visual check is required. Make sure that the chosen method of communication will work at all times (i.e., check cell phone service areas, provide spare batteries or chargers for radios, etc.). If the communication system is located in a vehicle, consider using an alternative method when the employee is away from the vehicle.

3) Where is the job located? Even a rarely used storage room can be considered remote or isolated. If transportation is required to reach the job location, the vehicle needs adequate emergency supplies and a first aid kit. Consider whether the employee needs emergency supplies and a first aid kit that can be carried away from the vehicle. Make sure the employee has adequate training to handle situations such as vehicle break down, a flat tire, and extreme weather conditions.

4) What is the nature of the work? Make certain the employee has adequate training and experience to complete the job alone. The employee must have access to appropriate personal protective equipment. If working outdoors, the employee should be fully prepared for weather conditions with proper clothing. Machinery, tools or equipment should be in good working order and inspected regularly. Is there risk of animal attack, insect bite (allergic reaction), etc? Is fatigue likely to be a factor?

Establish the Check-In Procedure

Any employee working alone should

be subject to a check-in procedure to ensure their safety. Even if the employee is only going to be out of contact for a short period, a co-worker or supervisor should be able to verify where the lone worker is located, when they left and when they are expected to return from the job. The frequency and method of employee check-in depends upon your analysis of the job hazards and what you consider a reasonable time for the remote worker to be alone.

For most workers, a periodic phone/radio call to or from a contact person will suffice. For some, a simple voice check-in will be adequate; for others, a visual check-in is necessary. Your check-in procedure should designate a contact person at specific times and include a back-up contact person. You may also wish to create a written record of contacts.

Assess the Worker

As an employer, you need to consider the individual being considered for remote work and determine whether they possess the skills and training needed to successfully and safely complete the job. Depending on the nature of the job, the employee may be expected to possess first aid skills, outdoor survival skills and/or vehicle repair skills.

Lone Worker Responsibilities

The lone worker also must take responsibility for his or her personal safety. Lone workers are also responsible for promptly reporting any accidents, injuries, near misses or other dangerous occurrences. Without this information, it is difficult for the employer to conduct a realistic risk assessment and to put necessary safety procedures and



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.

Publisher: Risk Management Services

Editor: Marcus Ballou

Layout Designer: Jaime G. Clark

P.O. Box 9109, Augusta, ME 04332-9109
1-800-590-5583 or (207) 626-5583

Story Continued on Page 36

Minimum Driver Training Requirements For Fire Apparatus Have Been Established

The rule was passed by the **Bureau of Labor Standards (BLS)**, Board of Occupational Safety and Health on December 2, 2010 and became effective on March 3, 2011. At present, BLS will identify, but not penalize, departments in non-compliance. The standard will be enforced (with penalty) beginning March, 2012.

This standard identifies the minimum job performance requirements for career and volunteer firefighters who DRIVE fire apparatus, in order to reduce accidents, injuries and loss of fire equipment.

1. ALL Maine fire departments must establish standard operating procedures (SOP) for all fire apparatus. Minimum SOP requirements are listed in the rule.
2. ALL Maine fire departments must establish training programs for apparatus drivers. The rule sets minimum requirements including:
 - Driver's skills must be evaluated **on the operation** of each vehicle they drive using an established evaluation form.

- Skills are to be assessed every 3 years

Individual apparatus driver training records must be maintained for the duration of employment, plus 6 years. BLS will review records during inspections. Apparatus drivers must be approved by the chief.

Maine Bureau of Labor Standard's Workplace Safety and Health Divi-

sion has prepared a CD containing resources to assist with compliance with this rule. Contact them at 207-623-7900.

MMA's Loss Control Department is available to provide a copy of the rule and to assist with or review your SOPs. Please contact your assigned Loss Control Consultant or Loss Control Technician, Jon Hachey, at 1-800-590-5583 or jhachey@memun.org. 🏠

GOOD NEWS: Dividends Approved

We are pleased to announce that the Board of Trustees of the MMA Workers Compensation Fund and the Board of Directors of the MMA Property and Casualty Pool met on May 26th and voted to approve the payment of annual dividends to eligible members of the two programs.

Due to the continued good risk management practices and favorable

loss experience of its members, the Risk Management Services Property & Casualty Pool and Workers Compensation Fund are celebrating the scheduled distribution of \$1.1 million in dividends later this summer. Currently the Workers Compensation Fund has 567 members and the Property & Casualty Pool has 426 members currently participating in the self-insurance programs. 🏠

ACCIDENT INSURANCE FOR VOLUNTEERS *ENHANCED COVERAGE AT A LOWER COST*

Maine Municipal Association Risk Management Services is excited to announce that the Accident Insurance for Volunteers (AIV) coverage is available with enhanced benefits. The program is now offered through The Hartford Life Insurance Company; effective July 1, 2011. The program provides increased coverage limits of \$50,000 for accidental medical expenses at a reduced premium of only \$2.50 per volunteer. Last year 75 members participated in this MMA sponsored program, providing excess medical coverage to 4912 volunteers.

If you have any questions with Accident Insurance for Volunteers (AIV) or the Volunteer Firefighter Blanket Accident Program (VFF), please contact Judy Doore

jdoore@memun.org or 1-800-590-5583, ext. 2255

WELCOME NEW LOSS CONTROL STAFF



Robert McNeally Jr. CSP has joined the Loss Control Department as **Senior Loss Control Consultant**. Robert, a certified safety professional with a BS in Industrial Engineering and Technology has more than twenty-two years loss control consulting experience. He will provide consulting services to participating members of the Property and Casualty Pool and the Workers Compensation Fund in northern and “downeast” Maine. Robert resides in Patten. 🏠



Jonathan Hachey has joined the Loss Control Department as **Loss Control Technician**. Jon has a BFA from the University of Maine in Farmington and more than ten years experience in administration and customer support. Jon will provide technical support services to members and for the Loss Control staff and will be directly involved in the administration of our safety grant and scholarship programs and the web based online training resource. 🏠

In an effort to show our appreciation to municipalities participating in the MMA P&C Pool and the MMA WC Fund, **Risk Management Services** along with members of the Executive committee have sponsored **regional recognition dinners**. Municipal officials who attended the dinners were entered in a **door prize drawing** for a complimentary registration and hotel accommodations for this year’s MMA Convention. We would like to congratulate the following officials who won:

Patricia Ellis, Clerk – Dallas Plantation (Dover-Foxcroft region)
Angela Beckwith, Selectperson – Town of Perham (Farmington region)
Ray Bishop, Fire Chief – Town of Limerick (York County region)

Planning for the September & October Recognition Dinners are underway as we look forward to showing our appreciation for your continued membership.

VISIT RISK MANAGEMENT SERVICES

at the 75th Annual MMA Convention
 October 5 & 6, 2011 at the Augusta Civic Center.

Bring your questions about our programs and enjoy the convention.

We look forward to seeing you there!

One (cont'd)

precautions in place.

In summary, employers must provide for the safety of lone workers by giving some thought to the general definition of working alone, analyzing the tasks, inherent hazards and equipment involved, and then, at a minimum, establishing a check-in procedure. Keep in mind that the nature, frequency and method of check-in may need adjustment depending on changing job tasks and circumstances such as location and weather. Consider the vehicle being used by the remote worker, and think about the person who will be working alone. Your forethought and planning will help ensure the safety of your lone worker. 🏠

Welcome New Members!

Property & Casualty Pool:

Auburn Water District
 Auburn Sewerage District
 Town of West Bath
 Town of Phippsburg
 Lower Kennebec Region
 School Unit 1

Unemployment Compensation Fund:

Town of Newcastle

Workers Compensation Fund:

The Forks Plantation

Commissioner. As is the case under current law, the municipality must be paid at the rate of 50 cents for each bushel of clams taken under this program.

LD 1522 – An Act To Make Technical Changes to Marine Resources Laws. (Sponsored by Sen. Snowe-Mello of Androscoggin Cty.) **PL 2011, c. 266**

Among many technical amendments to the laws governing programs administered by the Department of Marine Resources, this Act establishes in statute the administration of the existing Maine Working Waterfront Access Pilot Program. This pilot program is designed to provide resources to the Department to protect especially vital working waterfront properties, including municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives.

Regulatory Fairness & Reform

LD 1 – An Act To Ensure Regulatory Fairness and Reform. (Sponsored by Sen. Raye of Washington Cty.) **Emergency Enacted; PL 2011, c. 304 (6/13/11)**

This Act makes a number of changes to various elements of state law for the purpose of reducing the regulatory burden on businesses. Among those changes, the Act: (1) allows companies to establish voluntary environmental audit programs to reduce their exposure to environmental violations and penalties; (2) authorizes state agencies to conduct cost-benefit analyses for proposed rules; (3) establishes a Bureau of the Special Advocate within the Secretary of State's Office to advocate on the part of small business interests within the state regulatory process; and (4) limits the size and the scope of the Board of Environmental Protection.

The Act has two elements that deal with municipal programs.

Section C of the Act dusts off a program created 23 years ago known as the Business Assistance Referral and Facilitation Program and renames it as the Business Ombudsman Program. One charge given to the Business Ombudsman is to provide a comprehensive permit information and assistance service. An element of both the older and the revitalized program provides a delegation system whereby qualified municipalities, apparently over 4,000 in population, can become the one-stop permitting authority for retail facilities less than 10,000 square feet in size. The list of retail facilities that could be inspected and licensed by the delegated municipalities include hotels and motels, convenience stores and eating and lodging places, and the permitting required for the sale of liquor or beer, tobacco, food, beverages, lottery tickets and gasoline. According to this system, the inspection and permitting fees that would otherwise accrue to the state agencies doing the work would be re-routed to the delegated municipalities, plus one-half of an additional \$4 municipal fee per permit.

Section J of the Act opens up the delegated authority municipalities were given in 2009 to perform Life Safety Code review for certain commercial buildings. At that time, not all of the types of buildings that need to be reviewed for Life Safety Code under current law were included in the list of development projects delegated municipalities could review. This Act provides complete Life Safety Code review authority to delegated municipalities.

State & Local Government

LD 86 – An Act To Provide Certainty to Business and Development. (Sponsored by Sen. Schneider of Penobscot Cty.) **PL 2011, c. 63**

This Act prohibits a municipality from nullifying or amending a land use permit by means of subsequently enacting, amending or repealing a local ordinance after a period of 45 days has passed from the time the permit received final approval. The prohibition expressly does not apply to or otherwise invalidate any provision in a municipal ordinance that provides for the expiration or lapse of a permit or approval following the expiration of a certain period of time.

LD 174 – An Act To Amend the Law Governing Employment, Discipline and Dismissal of Chief Deputy Sheriffs. (Sponsored by Rep. Dion of Portland.) **PL 2011, c. 15**

This Act requires any chief deputy sheriff to hold the minimum qualifications for sheriff. The Act also provides exclusive authority to appoint, dismiss, suspend or discipline a sheriff's chief deputy with the sheriff rather than the county commissioners.

LD 278 – An Act To Allow the Towns of Mapleton, Castle Hill and Chapman To Adopt a Policy To Simplify the Municipal Disbursement Warrant Process. (Sponsored by Rep. Willette of Mapleton.) **P & SL 2011, c. 13**

This Act amends the Private and Special law governing the financial administration of the resources of the towns of Mapleton, Castle Hill and Chapman, which allows for a common ownership depository account. The amendment to that private law expressly authorizes the three towns to adopt a policy to permit the disbursement of money when a warrant has been signed (or signed by facsimile) by one or more designated municipal officers representing each town. The policy must be filed with the town clerk and municipal treasurer in each town and renewed annually by a vote of the municipal officers in each town.

LD 322 – An Act To Amend the Informed Growth Act. (Sponsored by Rep. Clark of Easton.) **PL 2011, c. 89**

This Act amends the "Informed Growth Act" (IGA) law to make its application on the municipal level voluntary rather than mandatory. As enacted, the IGA required a certain analysis to be conducted and procedures to be followed before any "big box" retail development of a certain size could be approved. With this Act, that analysis and those procedures are only required if the municipality chooses to adopt an ordinance that adopts the IGA program "by reference", as the IGA system is laid out in state law. The Act also makes other changes to the IGA system, including: (1) allowing the municipality to establish the fee to cover the IGA analysis as conducted by a "qualified preparer", rather than the flat \$40,000 fee in current law; (2) allowing the municipality to pick the "qualified preparer" rather than utilize a list of "qualified preparers" as pre-screened by the State Planning Office; (3) allowing the comprehensive economic impact study to cover any or all of the listed impact factors rather than requiring the impact study to cover each and every factor; and (4) amending the definition of "undue adverse impact" to make it more of an overall rather than factor-specific analysis.



Senator Doug Thomas (Somerset County), co-chair of the State and Local Government Committee is to be commended for insisting that the general public have ample opportunity to participate in the legislative process. Sen. Thomas was also a strong supporter of MMA's public notice publication bill, LD 392.

LD 541 – An Act To Clarify the Boundary between the Town of Cushing and the Town of Friendship, Town of Warren, Town of

Thomaston and Town of Waldoboro. (Sponsored by Rep. Richardson of Warren.) **P & SL 2011, c. 4**

This Act establishes the boundary line between the Towns of Cushing, Friendship, Warren, Thomaston and Waldoboro. Prior to filing in the registry the plotted plan developed as a result of the line descriptions provided in this Act, the plan needs to be signed by the municipal officers of the five towns.

LD 594 – Resolve, To Enhance Economic Development in the City of Eastport by Facilitating the Ability of the City of Eastport To Transfer Ownership of Property. (Sponsored by Sen. Raye of Washington Cty.) **Emergency Passed; Resolves 2011, c. 12 (3/31/11)**

This Resolve authorizes the City of Eastport to sell the so-called “Boat School” property without first obtaining approval from the Legislature.

LD 701 – An Act To Amend Certain Laws Governing County Sheriffs. (Sponsored by Rep. Dion of Portland.) **PL 2011, c. 95**

This Act requires the county commissioners to set the base salary of the county sheriff in the county budget prior to the election of a sheriff, and then prohibits the commissioners from reducing that amount except in the case of malfeasance, misfeasance, neglect, negligence or failing to remain certified with the Maine Criminal Justice Academy.

LD 812 – An Act To Allow Municipalities the Option To Subsidize Publicly Owned Bus Stops through Advertising. (Sponsored by Rep. Harlow of Portland.) **PL 2011, c. 114**

This Act authorizes municipalities to erect and maintain outdoor advertising signs at bus stops that are visible to the traveling public from the traveled way. All revenue generated from the display of the bus stop advertising must be used for transportation purposes, which can include maintenance of the bus stop.

LD 1257 – An Act Regarding Labor Contracts for Public Works Projects. (Sponsored by Sen. Plowman of Penobscot Cty.) **Passed to be Enacted**

This Act prohibits the Department of Transportation, the Bureau of General Services and the Maine Turnpike Authority from: (1) requiring a bidder, contractor or subcontractor from entering into or complying with an agreement with a labor organization regarding the same or related public works project; (2) discriminating against a bidder, contractor or subcontractor that becomes or refuses to become a signatory to such an agreement; and (3) requiring or prohibiting a bidder, contractor or subcontractor from entering into or complying with an agreement that requires an employee to become a member of a labor organization or pay certain fees to a labor organization as a condition of employment. Specific projects may be exempted from this general “hands-off” requirement if special circumstances require an exemption and it is in the best interests of the project.

LD 1416 – An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code. (Sponsored by Rep. McKane of Newcastle.) **PL 2011, c. 408**

This Act makes significant changes to the laws governing the Maine Uniform Building and Energy Code (MUBEC) as enacted in 2008 and initially implemented in 2010. Specifically, this Act increases the municipal population threshold triggering the obligatory enforcement of MUBEC from over 2,000 in population to over 4,000 in population. Therefore, MUBEC will now be the standard for local building and energy codes for municipalities with populations exceeding 4,000. The Act also clearly separates the MUBEC code into a uniform build-

ing code and a separate uniform energy code by requiring the Technical Building Codes and Standard Board to adopt, amend, and maintain those two elements of the MUBEC code separately. The Act also authorizes but does not require a municipality with a population of 4,000 or less to adopt either the uniform building code or the uniform energy code, or both. If a municipality of 4,000 or under adopts these codes, it assumes the responsibility of enforcement. If a municipality does not adopt the MUBEC codes, those codes do not apply in that community. (See MUBEC related article on pg. 12)

LD 1460 – An Act Concerning the Recording of Plans for Subdivisions. (Sponsored by Sen. Thomas of Somerset Cty.) **PL 2011, c. 245**

This Act requires a municipality to allow at least 90 days for an approved subdivision plan to be recorded in the registry of deeds.

LD 1499 – An Act Concerning Fees for Users of County Registries of Deeds. (Sponsored by Rep. Cotta of China.) **Emergency Enacted; PL 2011, c. 378 (6/16/11)**

This Act establishes fixed fees that may be charged by county registries of deeds between the effective date of the legislation and July 31, 2012 for paper abstracts and copies of plans (\$5), other paper abstracts and copies (\$1), digital abstracts and copies (50 cents per page), and 1,000 or more digital abstracts and copies of consecutive records (5 cents per page). As of August 1, 2012, according to this Act, the rates that can be established for these copies may be determined by the county commissioners according to the “reasonable fee” standards that exist in current law.

LD 1533 – An Act To Provide for a Method To Remove an Elected Municipal Official. (Sponsored by Rep. Sanderson of Chelsea.) **Emergency Enacted; PL 2011, c. 324 (6/13/11)**

This Act provides a procedure for the recall of a municipal officer that would apply in every town and city that does not have a specific recall system established by ordinance or charter. This recall procedure would apply where the elected official has been convicted of a crime, the conduct of which occurred during the official’s term of office and the victim of which is the municipality. In that circumstance, the Act provides that a recall election may be initiated by a petition signed by at least 10% of the number of voters who participated in the last gubernatorial election.

LD 1584 – Resolve, To Allow the State To Continue Efforts To Sell or Lease Certain Real Property in the City of Hallowell. (Sponsored by Rep. Treat of Hallowell.) **Emergency Passed; Resolves 2011, c. 99 (6/22/11)**

This Resolve amends a previously enacted Resolve regarding the sale of certain state-owned properties in the City of Hallowell by authorizing a two-year extension of the terms governing the leasing of some of that property to SAD #16.

Taxation

LD 297 – An Act To Allow Treasurers To Process Tax Lien Discharge and Sanitary District Sewer Lien Documents Using Facsimile Signatures. (Sponsored by Rep. Casavant of Biddeford.) **PL 2011, c. 104**

This Act allows municipal treasurers and sanitary district and sewer department treasurers to use facsimile signatures in filing and processing tax lien documents and the lien documentation necessary to process sanitary district and sewer department liens.

LD 433 – An Act To Exempt from Income Tax the Income of Nonresidents Working in Maine Pursuant to an Interlocal Agreement. (Sponsored by Sen. Hill of York Cty.) **PL 2011, c. 130**

This Act exempts from Maine income taxes any remuneration received by an employee of a political subdivision of an adjoining state while performing service under the terms of an interlocal agreement executed by both Maine and New Hampshire political subdivisions as long as the performance of the service under the interlocal agreement does not displace an employee currently performing the service who is a resident of the state.

LD 441 – An Act To Reform Telecommunications Taxation. (Sponsored by Rep. Chase of Wells.) **PL 2011, c. 430**

This Act restructures the personal property tax that is levied by the state against the just value of the “two-way, interactive” personal property owned by telecommunications companies. The personal property tax is restructured by this Act as an excise tax for the privilege of operating in the State. For FY 2012, the excise tax rate will be 19.2 mills under this Act, which is the same property tax rate as currently scheduled. For FY 2013 and thereafter, the excise tax rate will be whatever the tax rate is of the municipality where the two-way, interactive telecommunications property is located. That element of this legislation will, for the first time, require the owners of this type of telecommunications personal property to identify their property according to the municipality in which it is located.

LD 507 – An Act To More Closely Coordinate the Classification of Forested Farmland under the Farm and Open Space Tax Laws with the Maine Tree Growth Tax Law. (Sponsored by Rep. Curtis of Madison.) **PL 2011, c. 404**

This Act provides that for all transfers of land from enrollment in the Tree Growth tax program into the Farmland tax program occurring after October 1, 2011, the municipality will still receive Tree Growth reimbursement for the forested property within the Farmland parcel even after a transfer.

LD 533 – An Act To Clarify the Use of Tax Increment Financing Funds for Recreational Development. (Sponsored by Rep. Clark of Millinocket.) **PL 2011, c. 102**

This Act amends the law governing allowable costs under a Tax Increment Financing (TIF) plan associated with the planning, design, construction, maintenance, grooming and improvements of recreational trails to provide that those costs may pertain to multiple projects or the several phases of a phased-in project.

LD 557 – An Act To Qualify the Port of Eastport as Tax Exempt for Purpose of Bonding. (Sponsored by Rep. Burns of Whiting.) **Emergency Enacted; P & SL 2011, c. 7 (5/19/11)**

This Act removes the requirement that the Eastport Port Authority obtain the consent of the Eastport City Council to acquire real property in the City of Eastport, with the intention of allowing the Port Authority to be a political subdivision under

the Internal Revenue Code for the purposes of issuing bonds that are exempt from federal income taxation.

LD 742 – An Act To Amend the Maine Historic Preservation Tax Credit. (Sponsored by Sen. Rector of Knox Cty.) **PL 2011, c. XXX**

The Maine Historic Preservation Tax Credit was enacted with a “sunset” clause such that no taxpayer could be provided the credit with respect to expenditures incurred after December 31, 2013. This Act extends the sunset date to 2023 and requires that by January 15, 2013 the Maine Historic Preservation Commission make recommendations to the Legislature regarding specific proposals for funding the credit. Every two years thereafter, the Commission is directed to submit a report to the Legislature on the use of the credit, with additional recommendations as to its funding.

LD 823 – An Act To Amend the Law Governing Tax Increment Financing Districts. (Sponsored by Rep. Rochelo of Biddeford.) **PL 2011, c. 287**

This Act amends the requirement that a bond-funded project in a TIF development program must be accomplished within five years by extending the period of time from TIF approval to bond-project completion to eight years.

LD 855 – An Act To Treat Plantations in the Same Manner as Towns for Purposes of Tax Increment Financing. (Sponsored by Sen. Thomas of Somerset Cty.) **PL 2011, c. 101**

This Act authorizes plantations to implement tax increment financing development districts and development programs in the same manner as is currently available to municipalities.

LD 895 – An Act To Allow the City of Bangor To Replace the Bangor Auditorium and Civic Center at the Bass Park Complex. (Sponsored by Sen. Farnham of Penobscot Cty.) **P & SL 2011, c. 15**

This Act relaxes certain standards in the Tax Increment Financing statute to allow the City of Bangor to finance or partially finance the construction of a replacement facility for the Bangor Auditorium and Civic Center with TIF funds.

LD 1142 – Resolve, Directing the Department of Administrative and Financial Services, Bureau of Revenue Services To Review the Farm and Open Space Tax Law. (Sponsored by Rep. Knight of Livermore Falls.) **Resolves 2011, c. 86**

This Resolve directs Maine Revenue Services to work with guidance from the Department of Agriculture to evaluate land used directly and indirectly for or in support of agricultural activities associated with a parcel enrolled in the Farm and Open Space tax law. Maine Revenue Services (MRS) is directed to invite representatives from a statewide farming association and a statewide association representing municipalities to participate in the review. The review must consider land within the footprint of agricultural related buildings including greenhouses, dairy barns and buildings used to feed or shelter livestock. The review must consider the method for the valuation of such lands under a current use valuation methodology and an assessment of the thresholds for acreage and income that allow farmland to be assessed at its current use. MRS must submit its report on this study to the Legislature by December 31, 2011, and the Taxation Committee is authorized to report out legislation pertaining to any of the report’s recommendations.

LD 1385 – An Act To Provide Tax Relief to Residents Deployed for Military Duty or Stationed outside of Maine. (Sponsored by Rep. Eves of North Berwick.) **PL 2011, c. 313**

This Act, which takes effect on January 1, 2012, authorizes a municipality to adopt an ordinance that provides an exemp-



Representative Phil Curtis of Madison is the Majority Leader of the House. In addition to all the duties associated with that office, he took the time this session to shepherd through a bill (LD 507) on behalf of MMA to rectify a municipal disadvantage that occurs when a property owner transfers forested land from the Tree Growth tax program to the Farmland tax program.

tion from the motor vehicle excise tax that would otherwise be imposed on a vehicle owned by a resident who is on active duty serving in the U.S. Armed Forces and who is either permanently stationed at a military or naval post, station or base outside of Maine or deployed for military service for a period of more than 180 days who desires to register his or her vehicle in Maine. To apply for the exemption, the applicant must present certification from the applicant's commander verifying eligibility.

LD 1459 – An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2011-12. (Sponsored by Rep. Knight of Livermore Falls.) **Emergency Enacted; PL 2011, c. 235 (6/06/11)**

This Act establishes the municipal cost components for state and county services provided to the unorganized territory. The municipal cost components constitute the property tax for the unorganized territory. After computing all appropriations less deductions, the total UT tax assessment for FY 2012 is \$17,639,944.

LD 1468 – An Act Concerning Technical Changes to the Tax Laws. (Sponsored by Rep. Knight of Livermore Falls.) **PL 2011, c. 240**

This Act makes a number of non-substantive, housekeeping changes to the state's tax laws, such as deleting archaic language, correcting cross references, and replacing gender-specific language.

Transportation

LD 24 – Resolve, To Name Part of Route 2 in the Town of Lincoln and the Town of Winn the Master Sergeant Gary Gordon Highway. (Sponsored by Rep. Gifford of Lincoln.) **Resolves 2011, c. 1**

This Resolve directs the Department of Transportation to designate a section of Route 2 in the Town of Lincoln and the Town of Winn the Master Sergeant Gary Gordon Highway.

LD 26 – Resolve, To Name a Bridge over the Kennebec River between the Town of Benton and the Town of Fairfield the Brian L. Buker/Frank W. Haskell Medal of Honor Bridge. (Sponsored by Rep. Cotta of China.) **Resolves 2011, c. 3**

This Resolve directs the Department of Transportation to designate a bridge over the Kennebec River between the Town of Benton and the Town of Fairfield the Brian L. Buker/Frank W. Haskell Medal of Honor Bridge.

LD 36 – Resolve, To Deauthorize the Naming of the Bridge over Pattagumpus Stream. (Sponsored by Rep. Clark of Millinocket.) **Emergency Passed; Resolves 2011, c. 2 (3/01/11)**

This Resolve repeals the directive to the Department of Transportation to designate a certain bridge over a stream in Medway the "Nicatou Bridge" because the previous Resolve creating the directive named the wrong bridge.

LD 47 – An Act Directing the Department of Transportation To Allow a Break in Control of Access on William L. Clarke Drive in the City of Westbrook. (Sponsored by Rep. Peoples of Westbrook.) **P & SL 2011, c. 3**

The creation of access to a state highway or state aid highway is limited under current law to access relocations and development of additional state highway systems. This Act

authorizes a specific entrance to be construction on the William L. Clarke Drive in the City of Westbrook notwithstanding the general law governing access to state highways.

LD 221 – An Act To Make Changes to the Motorcycle Inspection Sticker Requirements. (Sponsored by Sen. Plowman of Penobscot Cty.) **PL 2011, c. 167**

This Act amends the law recently enacted requiring the display of motorcycle inspection stickers on certain places on all motorcycles effective March 1, 2012 to include the stickers to be affixed to the registration plate. This Act also creates a system whereby all motorcycles must be registered for a fixed-year period running from April 1 through March 31. The Act provides a transition process to ensure all motorcycles registered in Maine are incorporated into the uniform system.

LD 235 – An Act To Include Antique Motorcycles on the List of Vehicles That Are Exempt from Inspection. (Sponsored by Rep. Gilbert of Jay.) **Emergency Enacted; PL 2011, c. 8 (3/25/11)**

This Act exempts antique automobiles from the motor vehicle inspection process.

LD 437 – An Act Relating to Inspection Requirements for New Motor Vehicles. (Sponsored by Sen. Thomas of Somerset Cty.) **PL 2011, c. 191**

This Act exempts from motor vehicle inspection requirements the new motor vehicles owned by a new vehicle dealer that are allowed under current law to operate with dealer plates.

LD 456 – An Act Relating To Temporary Disability Parking Permits. (Sponsored by Rep. Longstaff of Waterville.) **PL 2011, c. 117**

This Act permits the Secretary of State to authorize certain medical professionals to issue a 21-day disability parking permit to a person with a disability to be used while that person is waiting to receive a permanent disability plate or placard.

LD 477 – An Act Relating to Noise Violations by Motor Vehicles, Including Motorcycles. (Sponsored by Rep. Russell of Portland.) **Emergency Enacted; PL 2011, c. 158 (5/26/11)**

This Act establishes a defense that can be used in response for a summons for noise violations for both motor vehicles and motorcycles. The defense is based on the determination of the vehicle's decibel outputs according to certain thresholds and as tested at participating certified inspection stations.

LD 520 – An Act To Allow a Waiver for On-premise Signs. (Sponsored by Rep. Beaulieu of Auburn.) **PL 2011, c. 115**

This Act allows the Commissioner of the Department of Transportation to waive a general restriction on placing "on-premises" business signs within 20 feet from the outside edge of the paved portion of any public way that has more than two travel lanes and a total paved portion greater than 24 feet if a majority of the on-premise signs within 1,000 feet of the proposed location are already located within that 20-foot zone or the proposed on-premise sign is replacing an existing on-premise sign within the 20-foot zone. The Act stipulates that the owner of such an on-premises sign does not gain any permanent property rights within the right-of-way, and the Department of Transportation is not responsible for loss or damage to such signs and may remove them at any time without compensation to accommodate highway uses.

LD 576 – An Act To Make Supplemental Allocations from the Highway 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 Year Ending June 30, 2011. (Sponsored by Sen. Collins of York Cty.) **Emergency En-**

acted; **PL 2011, c. 20 (4/01/11)**

This Act is a supplemental budget related to transportation funding and other expenditures from the state's Highway Fund for the remainder of Fiscal Year 2011. There are no elements of this supplemental budget balancing Act that are of particular relevance to municipal government.

LD 736 – An Act To Prohibit Texting while Driving. (Sponsored by Sen. Diamond of Cumberland Cty.) **PL 2011, c. 207**

This Act provides that a person may not operate a motor vehicle while engaging in text messaging.

LD 778 – An Act To Amend the Process of Federal Aviation Administration Airport Improvement Program Grants. (Sponsored by Rep. Willette of Presque Isle.) **PL 2011, c. 351**

This Act amends the law governing the Federal Aviation Administration Improvement Grants Program (Program) by: (1) providing that the Maine Department of Transportation (MDOT) is only responsible under the Program for aiding and assisting municipalities in the development of their airports and not the airports' maintenance or operation; (2) establishing the Program to be administered by MDOT as a state grant program that can provide 1:1 matching funds for eligible airport capital improvements and qualifying equipment purchases provided those projects are ready for construction and approved by the Federal Aviation Administration; (3) clarifying that MDOT may distribute funds from the Program to primary airports without prior project approval by the Commissioner of MDOT; and (4) clarifies the municipal obligation to obtain the approval of the Commissioner of MDOT for the project and project application when applying for and accepting federal aid to further any purpose related to the development of aeronautics.

LD 796 – An Act To Continue the Axle Fine Waiver during the Midwinter Season. (Sponsored by Sen. Collins of York Cty.) **Emergency Enacted; PL 2011, c. 86 (5/16/11)**

A law was enacted in 2010 that waived violation of certain axle weight limits (to be distinguished from overall truck weight limits) during the months of January and February 2011 that would otherwise apply to trucks on the state and local public ways. That law was "sunsetting" to automatically be repealed as of September 2011. This Act repeals that repeal date, making the axle weight limit waiver permanent during every January and February.

LD 1167 – An Act To Protect the Privacy of Persons Involved in Reportable Motor Vehicle Accidents. (Sponsored by Rep. Cebra of Naples.) **PL 2011, c. 390**

This Act provides that the Bureau of the Maine State Police may not publicly disseminate personally identifying accident report data that are contained in an accident report database maintained, administered or contributed to by the State Police, but may publicly disseminate accident report data that do not contain personally identifying information.

LD 1219 – Resolve, To Require the Department of Transportation To Designate the Park Street Bridge in the Town of Presque Isle the Gold Star Memorial Bridge. (Sponsored by Rep. Willette of Presque Isle.) **Resolves 2011, c. 37**

This Act directs the Department of Transportation to designate the bridge on Park Street in Presque Isle that crosses the Presque Isle Stream the "Gold Star Memorial Bridge".

LD 1313 – An Act To Amend the Motor Vehicle Laws. (Sponsored by Sen. Collins of York Cty.) **Emergency Enacted; PL 2011, c. 356 (6/15/11)**

November 8th Ballot Preview... Citizens Taking Action

On November elections in an odd numbered year, voters are called to cast ballots on referendum elections, which can include people's veto referenda, citizen initiatives, bond issues and constitutional amendments.

This year's referendum election is somewhat unusual because the ballot will include questions that are the result of citizen action, rather than legislative action. The November 8 ballot will include two citizen initiated bills seeking voter approval to expand Maine's gambling facility laws and may also include a question seeking to overturn a decision made by Legislature and Governor during the recent legislative session.

What follows is a brief description of the ballot measures. For more information, please visit the Secretary of State's website at: <http://www.maine.gov/sos/cec/elec/upcoming.html>.

Citizen Initiatives

An Act Regarding Establishing a Slot Machine Facility (IB 01 / LD 985). This initiated bill, the so-called "Lewiston gaming" initiative, authorizes the establishment of a slot machine facility in a municipality with a population of at least 30,000, where slot machines were not in operation as of July 1, 2010. The initiated bill removes the limit on the total number of slot machines that may be registered in the state, which is currently 1,500 machines, and replaces it with a limit of 1,500 slot machines at each licensed facility. The Department of Public Safety's Gambling Control Board (Board) is charged with regulating the facility. To cover the Board's administrative costs, 1% of the facility's gross income is deposited in the state's General Fund. The initiated bill also requires that 40% of net slot machine income be distributed to 28 different entities, including the host community (2%), a neighboring municipality with a population of at least 20,000 (1%), and the county of the host community (1%), to name a few.

An Act To Amend the Laws Governing the Deadline and Conditions for Municipal Approval of a Second Racino and To Allow a Tribal Racino in Washington County (IB 02 / LD 1203). This is the so-called "Biddeford/Tribal racinos" initiative. Current law requires slot machine gaming facilities to be located within a five-mile radius of the center of a commercial harness racing track that conducted races with pari-mutuel wagering on more than 25 days during calendar year 2002. As proposed by this citizen initiative, the Board would be authorized to accept license applications to operate a slot machine facility from either: (1) a licensed commercial track owner located within a 25-mile radius of commercial track that conducted pari-mutuel wagering on more than 25 days in 2002; or (2) an operator of a licensed commercial track owned by a federally recognized Indian tribe located in Maine. Under the terms of the citizen initiative, the Board may allow an additional 1,500 slot machines to be registered for each racino facility licensed and commencing operations after January 1, 2010.

People's Veto

On Tuesday, June 21, Governor LePage signed into law, a bill repealing the state's same-day voter registration system. The bill was LD 1376 and is described in detail in the *New Laws* article under the Veterans and Legal Affairs Committee. The centerpiece of LD 1376 is the repeal of same day voter

(cont'd on next pg.)

registration, requiring voters to register at least two business days before an election. LD 1376 also modifies the existing “no reason” absentee process into a “for cause” process for voters seeking to cast absentee ballots within a two business-day window before an election. Under this modified process, voters are prohibited from voting by absentee ballot “in the presence of the clerk” two business days before the election except in cases where the voter signs an application designating one of three possible good-cause reasons for needing to vote absentee. The “good-cause” reasons include: (1) an unexpected absence from the municipality during the day of the election; (2) a physical disability, incapacity or illness making the voter unable to leave home; and (3) inability of a resident of a coastal island ward or precinct to the travel to the polls.

Although the law is scheduled to go into effect on September 28 of this year, efforts are currently under way to collect the 57,277 signatures necessary to bring a people’s veto referendum to the voters of Maine. If the signature gathering effort can be successfully completed before August 8, voters will be asked on November 8 of this year if the Legislature’s and Governor’s decision to end the same day voter registration system should be vetoed. If the initiators fail to meet the August 8 deadline, but are otherwise able to collect the necessary signatures before September 28, the election on the people’s veto will be held in June of 2012.

It is important to note that the people’s veto effort seeks only to reject the element of the law that ends the practice of same day voter registration. All other elements of the law remain intact, regardless of the outcome of the people’s veto, including the provisions of the law which places limits on the issuance of absentee ballots after the third business day before an election. **mc**

This Act makes over a dozen clarifying, technical and minor substantive changes to the state’s motor vehicle laws. Pertinent to municipal motor vehicle registration responsibilities, the Act: (1) clarifies the definition of “special mobile equipment” and exempts the requirement that special mobile equipment that is used exclusively on the closed portion of a public way for the limited purposes of constructing or repairing that public way and that is transported to and from the construction project is exempt from the registration requirement and, therefore, will not be subject to the motor vehicle excise tax; (2) clarifies that a motor vehicle drawing a camp trailer is not registered for the gross weight; and (3) clarifies that tow dollies are not required to be registered.

LD 1348 – 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, 2011, June 30, 2012 and June 30, 2013. (Sponsored by Rep. Cebra of Naples.) **Emergency Enacted; PL 2011, c. 392 (6/21/11)**

This Act is the Highway Fund budget for the FY 2012-2013 biennium. This Act sets the funding for the Urban Rural Initiative Program (local road assistance program), which was \$23.4 million in FY 2011, to \$24 million in FY 2012 and \$23.4 million in FY 2013. The Act also repeals the annual indexing of the excise tax rate imposed on internal combustion engine fuel (a.k.a., the “gas tax”) effective January 1, 2012. The Act also ends the island highway funding program where 75% of the motor vehicle registration fee revenue collected by the island communities, approximately \$110,000 a year, is used by the Department of Transportation to support the roads on the islands.

Instead, those funds are dedicated to support the Island Ferry Service. The Act also appropriates \$833,000 for FY 2012 to provide reimbursement to municipalities for Priority #3 and Priority #4 sand and salt building projects.

LD 1454 – An Act To Allow Police Officers To Operate Mobile Command Units without a Special License. (Sponsored by Rep. Haskell of Portland.) **PL 2011, c. 165**

Current law authorizes a full time or volunteer member of an organized municipal fire department with a Class C driver’s license to operate a fire apparatus. This Act expands that authority to allow both firefighters and law enforcement officers who are members of an organized municipal, state or federal law enforcement department to operate a fire apparatus and to operate a commercial motor vehicle as a “mobile command unit” with just a Class C license. A “mobile command unit” is defined as a motor vehicle designed and used by a law enforcement agency primarily as a command and control platform for emergency response.

LD 1549 – Resolve, To Name the Main Street Bridge in Newport after Sergeant Donald Sidney Skidgel. (Sponsored by Rep. Fredette of Newport.) **Resolves 2011, c. 52**

This Resolve renames the Main Street Bridge in the Town of Newport the Donald Sidney Skidgel Memorial Bridge.

Veterans & Legal Affairs

LD 142 – An Act To Improve Party Status Requirements. (Sponsored by Rep. Chipman of Portland.) **PL 2011, c. 227**

Under current law, in order to maintain status as a political party, the party must hold municipal caucuses in at least one town or city in each of the state’s 16 counties. This Act changes that criterion to require a municipal caucus in at least 14 of the 16 counties.

LD 179 – An Act To Prohibit the Issuance of a Duplicate Absentee Ballot under Certain Circumstances. (Sponsored by Rep. Nutting of Oakland.) **PL 2011, c. 40**

This Act allows an election clerk to issue a second state absentee ballot to an applicant provided the initially-issued ballot has not been marked and returned. The Act also amends the “good cause” standard to stipulate that an applicant’s decision to change his or her vote after an absentee ballot has been returned does not constitute “good cause”.

LD 277 – An Act To Make Disputed Ballots in State Elections Public. (Sponsored by Rep. Fossel of Alna.) **PL 2011, c. 258**

This Act requires the Secretary of State to make available for public inspection a copy of a disputed ballot arising from an election recount for State House of Representatives or State Senate provided the public inspection preserves the voter’s anonymity.

LD 343 – An Act To Facilitate a Change of Location for Agency Liquor Stores. (Sponsored by Sen. Goodall of Saga-



Representative Michael Beaulieu (Auburn) did an outstanding job co-chairing the Veterans and Legal Affairs Committee. Under his leadership, meetings started on time, public comments were warmly accepted and all ideas thoroughly vetted.

dahoc Cty.) **PL 2011, c. 135**

This Act provides a procedure for an agency liquor store to be relocated within a municipality where it is located. The procedure involves an application process to the Bureau of Liquor Enforcement which, among other requirements, includes proof of receipt of the municipal approval for the relocation. After notifying other agency liquor stores located within the municipality, the Bureau must then conduct a hearing on the proposed relocation within 45 days of receiving the application.

LD 1000 – Resolve, Directing the Secretary of State To Examine Centralization of the Petition Signature Verification Process. (Sponsored by Rep. Chipman of Portland.) **Resolves 2011, c. 75**

This Resolve directs the Secretary of State to examine the feasibility of centralizing the process for verifying signatures on candidate petitions, citizen initiatives and people's veto referendum petitions. In conducting this study, the Secretary is directed to consult with municipal election clerks to determine the benefits of centralization and to identify any legal or logistical barriers. The Secretary must submit a report on the findings of the examination to the Legislature by February 1, 2012.

LD 1134 – An Act To Make Municipal Recounts Consistent with State Recounts. (Sponsored by Sen. Goodall of Sagadahoc Cty.) **PL 2011, c. 255**

This Act repeals much of the language governing the "election recount hearing" process in municipal law (Title 30-A Maine Revised Statutes) and replaces it with the election recount procedures established in state election law (Title 21-A MRS). The ballot inspection process available for municipal elections is retained in municipal law, and the provisions regarding the fees for conducting a recount are retained because they were common in both statutes. The Act expressly identifies the officials who may oversee and conduct the recount process at the municipal level as the municipal clerk or the municipal clerk's designee, any election official as defined in state law (e.g., election warden, ward clerk, deputy warden or election clerk), or an official of a municipal police department performing an official duty. Other than those officials, an employee or elected official of the municipality or candidate in an election may not participate in the recount of that election.

LD 1376 – An Act To Preserve the Integrity of the Voter Registration and Election Process. (Sponsored by Rep. Nutting of Oakland.) **PL 2011, c. 399 – People's Veto Initiated**

This Act makes a number of changes to the state's election laws, including: (1) establishing the deadline for voter registration before an election as the 21st day before an election if registering by mail or third person and two business days before an election if registering in person; (2) requiring the municipal registrar's office be open on the third business day before an election for the purpose of accepting registrations at least two hours for municipalities with populations of 500 or less, at least four hours for municipalities with populations of 501-2,500, and at least six hours for municipalities with populations of 2,500 or more, with at least two of those hours between 5:00 and 9:00 p.m.; (3) establishing a process for a voter whose name does not appear on the voting list to self declare as an eligible voter and be provided a provisional ballot; (4) establishing a process for managing all provisional ballots; and (5) prohibiting the issuance of absentee ballots after the third business day before an election except when the voter signs an application designating one of three possible good-cause reasons for needing to vote absentee.

LD 1478 – An Act To Fully Enfranchise Voters. (Sponsored by Rep. Turner of Burlington.) **PL 2011, c. 409**

This Act allows that following the proclamation of the Gov-

ernor declaring a vacancy in the House of Representatives, a municipality that has not held a biennial caucus may nonetheless hold a caucus within 15 days of the Governor's proclamation to choose a nominee to fill the vacancy, and the appropriate political committee must be allowed at least 15 days from the date of proclamation in order to choose a nominee to fill the seat.

LD 1528 – An Act To Amend the Election Laws and Other Related Laws. (Sponsored by Rep. Crockett of Bethel.) **PL 2011, c. 342**

This Act makes many changes to Maine election procedures. Among those changes, this Act: (1) adds a voter's year of birth to the information that must be included on the incoming voting list; (2) specifies that the incoming voting list is a public record after it is unsealed following the election; (3) creates a new requirement that a municipality must apply to the Secretary of State at least 60 days before an election to change the location of a voting place; (4) requires all municipal voting places to open no earlier than 6:00 a.m. on election day for a state election and no later than 8:00 a.m., except for municipalities with populations less than 500, which are allowed to open the polls at 10:00 a.m.; (5) reorganizes and expands the sections of law governing the instructions that the Secretary of State must prepare for election officials and voters, and details how informational materials must be made available to the voters; (6) reorganizes the section of law governing how official ballots are provided to the municipalities and how the chain of custody must be maintained; (7) reorganizes the section of law governing how voted ballots are sealed and secured following the election and creates a section to describe the ballot security materials supplied by the Secretary of State; (8) provides that the absentee envelopes and applications are to be sealed separately from the ballots so that they become public records after they are unsealed; (9) requires the municipal clerk or registrar to keep a log of the petitions that are submitted to the municipal office for certification; and (10) prohibits a municipal clerk from removing absentee ballots from the municipal office to conduct in-person absentee voting unless requested to do so by the voter and prohibits a candidate or a member of a candidate's immediate family from assisting the clerk in delivering absentee ballots.

LD 1541 – An Act To Amend the Campaign Finance Laws. (Sponsored by Sen. Farnham of Penobscot Cty.) **Emergency Enacted; PL 2011, c. 389 (6/20/11)**

This Act makes sweeping changes to the state's campaign finance and campaign finance reporting laws. Among the two dozen changes, the Act reorganizes the current statutory requirements that municipal candidates in towns and cities with populations greater than 15,000 are subject to the campaign finance reporting laws, as well as municipal candidates in any smaller towns or cities that have voted to adopt the campaign finance reporting requirements for their municipal elections. Under current law, the municipal campaign finance reports in the communities over 15,000 in population are filed with the Governmental Ethics Commission. The campaign finance reports in the smaller communities that adopt the campaign finance reporting requirements are filed with the municipal election clerk and retained for an 8-year period. This Act requires all municipal campaign finance reports to be filed with the municipality and retained for the eight-year period, regardless of the size of the municipality; that is, the Act requires municipal election clerks in communities with a population over 15,000 to retain the campaign finance report locally for the 8-year period. Under the terms of this Act, the Governmental Ethics Commission would no longer be required to accept and file any municipal reports. m

2011 FALL BOND ISSUE SCHEDULE

Capital financing through the Bond Bank's General Bond Resolution Program allows borrowers to take advantage of the Bond Bank's high investment grade rating, low interest rates and reduced issuance and post issuance costs. Traditionally twice a year, in the spring and fall, the Bond Bank will consolidate eligible applicants and engage in a bond sale. From application to receipt of funds the bond issuance process usually lasts three to four months. Below is the schedule for the Bond Bank's Fall Issue.

AUGUST						
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Wednesday, August 3rd

Application Deadline.

Wednesday, August 24th

Application approval (Board Meeting).

Thursday, September 8th

Preliminary opinions and loan agreements due from bond counsel of each borrower.

SEPTEMBER						
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Friday, September 9th

Last date for signing school contracts and rates in place for water districts.

Monday, October 3rd & Tuesday, October 4th

Maine Municipal Bond Bank Pricing.

Wednesday, October 5th

Maine Municipal Bond Bank Sale Meeting (Board Meeting).

Wednesday, October 19th

Final documents due from bond counsel.

Wednesday, October 26th

Pre-Closing.

Thursday, October 27th

Closing - Bond Proceeds Available (1:00 PM).

OCTOBER						
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

If you would like to participate in or have any questions regarding the 2011 Fall Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



Under Construction... Please Return Next Year

Study, working group and carryover bills to be finally decided in 2012.

By Kate Dufour, Legislative Advocate, MMA

When time, funds or patience run short, the Legislature often reverts to either “studying” or “carrying over” issues the lawmakers believe need more work before being finally decided. Both processes temporarily put issues on hold, sometimes for very different reasons.

STUDIES AND WORKING GROUPS

The study or working group process provides interested parties an opportunity to research an issue more carefully. Studies are generally enacted as “resolves” and often include directives to state agencies to report recommendations, findings and draft legislation back to a legislative “committee of jurisdiction” before the beginning of the next legislative session. Bills originally drafted as studies or working groups often seek state-level resources (funding, access to state agency experts, commissioned analyses, etc.) and legislator participation. In other cases, bills originally drafted to enact policy changes are converted into studies to provide interested parties an opportunity to conduct additional research and develop solutions that are supported by a broader constituency.

This session, six study /working group bills of municipal interest were enacted. Some of the more municipally significant issues that will be studied in months leading to the reconvention of the Legislature in January 2012 include an overhaul to state employee and teacher retirement systems and the implementation of a regulatory takings compensation system.

A brief description of the six bills follows. A more detailed description of these enacted studies/work groups can be found in the *New Laws* article

in this edition of the *Maine Townsman*.

Redesigning State Employee Retirement, Teacher Retirement & SPO Decommissioning (LD 1043). Embedded within the FY 2012 - FY 2013 biennial General Fund budget are two studies of municipal interest. One of the studies focuses on a redesign of the state employee and teacher retirement systems. The other study focuses on the abolishment of the State Planning Office (SPO). For details, see the Appropriations and Financial Affairs section of the *New Laws* article.

Regulatory Takings Compensation Study (LD 1477). This bill creates an 11 member committee charged with reviewing the concept of implementing a compensation system for regulatory takings. For details, see the Judiciary section of the *New Laws* article.

Boilers (LD 375). This Resolve directs the Commissioner of the Department of Professional and Financial Regulation to convene a working group with the Board of Boilers and Pressure Vessels and other interested parties to review the current laws and rules and develop recommendations to improve the rationality and equity with respect to the regulation of hot water boilers. For details, see the Labor, Commerce, Research and Economic Development section of the *New Laws* article.

Land Use in the Unorganized Territory (LD 1534). This resolve establishes a 13-member commission to consider reforming the governance of land use planning in the unorganized territory (UT) and make recommendations on the role of state agencies and county government, the planning and appeals process and opportunities for increased self determination in land use planning in the UT. For details, see the Agriculture, Conser-

vation & Forestry section of the *New Laws* article.

Dig Safe(ly) (LD 407). In addition to making several amendments to the state’s Dig Safe law, the bill establishes and charges a 23-member working group with studying pre-excavation marking standards for excavators, marking standards for owners and operators of underground facilities, enforcement procedures and appropriate use of penalties, and clarification of incident reporting and incident investigation protocols. For details, see the Energy, Utilities and Technology section of the *New Laws* article.

Centralizing Signature Verification Efforts (LD 1000). This resolve directs the Secretary of State to examine the feasibility of centralizing the process for verifying signatures on candidate petitions, citizen initiatives and people’s veto referendum petitions. For details, see the Veterans and Legal Affairs section of the *New Laws* article.

CARRYOVER LEGISLATION

The process of carrying over a bill is only available during odd numbered years (i.e., the first year of the two year session), as all unresolved issues perish upon the final adjournment of the legislative session in even numbered years. Generally, bills carried over into the second session are either complex in nature or printed toward the end of session when the Legislature’s focus turns to the adoption of the budget.

This year, 19 bills of municipal interest were carried over into the second session, including bills that would overhaul municipal obligations to respond to requests for public records, require voters to show a valid photo identification before casting a ballot, and limit access to the Tree Growth

Program to those property owners actually engaged in timber harvesting practices.

What follows is a description of those carryover bills.

Freedom of Access Act Overhaul (LD 1465). This bill would amend Maine's Freedom of Access Act, or "Right to Know" law, in over a dozen ways including: (1) creating an affirmative duty for a governmental entity to provide copies of public records to people at their request rather than just providing an opportunity to examine those records; (2) providing the requestor with the right to obtain the copies of those records in all available formats, such as by photocopy or electronic or magnetic formats if available; (3) creating a duty for the governmental entity to explore obtaining assistance at a reasonable cost, to be borne by the requestor, so that the public record can be provided in the requested medium; (4) requiring all records requested to be immediately provided unless the records have to undergo redaction or are not in public use or are in storage; (5) requiring a cost estimate to be provided within three business days for any request that may exceed \$100 in costs calcu-

lated at the maximum \$10 per hour rate allowed under current law for searching for, retrieving and compiling requested records; (6) treating any failure to comply with the established response-time schedule to be considered a denial of the request and subject to enforcement procedures; (7) prohibiting a governmental entity from inquiring as to the purpose of a FOAA request; and (8) requiring every governmental agency to designate a "public access officer" who must be certified to the FOAA according to the

same certification program now required of various elected officials. The public access officer is charged with overseeing that governmental agency's response to FOAA requests.

Independent Review of EPS Model (LD 958). This Resolve appropriates \$600,000 to the General Purpose Aid to Education account for the purpose of commissioning an independent study of the Essential Programs and Services school funding model. At a minimum, the research entity that is awarded the project must analyze

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the EPS model in the following ways: (1) to see whether the original intent of the EPS model is being met and whether the EPS school funding formula is providing an amount of funding, including the state share, to meet the actual cost of providing adequate public education programs; (2) to assess the effect of the EPS formula on the member municipalities of school systems whose property-based "fiscal capacity" is above, below or equivalent to the statewide average; and (3) to determine the impact of recent laws enacting changes to the EPS school funding formula and the phase-in of the percentage of the state's share of school subsidy. By February 15, 2012, the Department of Education must inform the Legislature about the contract agreement for the independent study. By January 31, 2013, the independent review of the EPS school funding model must be presented to the Legislature.

Tree Growth Program Expulsion Standards (LD 1138). This bill amends the law enacted in 2010 regarding the formal notice a landowner with

property enrolled in the Tree Growth tax program must be given on the approach of the 10-year anniversary of the landowner's forest management plan. Under the compromise agreement enacted last year, the municipal assessor provides that formal notice within a six month window of the anniversary date, and in every case allows the landowner at least 120 days to provide the required update to the forest

management plan. Under current law, if that update is still not provided in the required timeframe, the property is withdrawn from the Tree Growth program and the withdrawal penalties are applied. This bill does not allow the property to be withdrawn and the penalties applied if the deadline is still not met. Instead, a maximum fine of \$100 would be applied for failing to meet the required deadline, and



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the landowner allowed an additional year to comply with the plan update requirement.

Tree Growth Program Eligibility Standards (LD 1470). This "concept draft" bill proposes to amend the Tree Growth tax law in a going-forward way so that only property owners who are engaged in timber harvesting would be determined eligible to enroll in the Maine Tree Growth program.

Voter Photo Identification Requirement (LD 199). This bill requires that a person provide photographic proof of identification in order to vote.

Gambling for Non-profits (LD 1469). This bill allows the Chief of the Maine State Police to issue a license to operate a video gaming terminal to any charitable, civic, fraternal and veteran organization that has federal tax exempt status. The bill allows for the installation and operation of up to five video gaming terminals per facility. Qualifying applicants must install the video gaming devices in buildings they own or lease and which are used for their charitable or fraternal purposes. Prior to obtaining a license from the State Police, the applicants

must first secure approval of the gaming operation from the municipal officers of the host municipality after a public hearing process as established in the bill. The bill provides 11 qualifying standards that must be met by an

applicant before obtaining a license, most of which pertain to the applicant's criminal record. One of those standards requires the applicant to be current on all tax obligations.

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portation Purposes (LD 52). This bill transfers 20% of the revenue generated by the sales or use tax on motor vehicles and motor vehicle parts from the state's General Fund to the Highway Fund, beginning in 2012. The transfer is designed to not affect the resources allocated to the municipal revenue sharing program.

School Discipline, Truancy and Expulsion (LD 1503) This bill makes a number of changes to the laws governing school discipline, truancy and expulsion. Among the many amendments to these areas of school law, the bill: (1) changes the compulsory school ages, which currently run from 7 to 17 years of age, to 6 to 18 years of age; (2) removes the requirement that local law enforcement be notified of a truant student by the school superintendent or designee; (3) requires school boards to adopt disciplinary policies prior to the start of the 2012-2013 school year with the goal of shaping those policies to focus on positive and restorative interventions rather than set punishments; (4) establishes due process standards for school expulsion proceedings; and (5) requires all expelled students to be provided a written reentry plan.

Waste-to-Energy (LD 425). This bill amends the laws encouraging the generation of electricity from renewable sources, in part by adding waste-to-energy resources to the list of "renewable capacity resource."

Flushability Standards (LD 781). This bill prohibits the packaging or labeling of paper or non-woven consumer products for distribution or sale in Maine as a "flushable" product (or otherwise safe for sewer and septic systems) unless the product meets a certain published acceptance criteria for flushability.

Maine Human Rights Act Housing Provisions (LD 1530). This bill amends the Maine Human Rights Act (MHRA) with respect to compliance with the building accessibility standards for public housing. Specifically, this bill establishes March 15, 2012 as the date after which all new or substantially reconstructed multifamily and public housing will have to comply with the updated American National Standards Institute (ANSI) standards for accessible and useable facilities. This bill also creates a definition of an "aggrieved person" under the MHRA

to include any person who claims to have been injured by or subject to unlawful discrimination. This definition could expand the scope of persons with legal standing under the Act.

Labor Union Choice (LD 309). As printed, this bill amends the state's labor laws to ensure that each public sector union represents only those public employees who are voluntarily members of that union.

Reinventing Government (LD 1437). This "concept draft" bill proposes to establish a process by which the more profound changes in governance and public policy with respect to "reinventing government" can be advanced and implemented. In summary, the bill proposes the appointment of a high profile Commission on Reinventing Maine Government composed of established statesmen and stateswomen and charges the Commission with reviewing the many reports

published over the past decade on the subject of governmental reform, and then developing "practical and specific" legislation that would accomplish large scale reform in governance and government structure. The bill seeks to treat that legislation in the way a citizen initiative is treated in that the Legislature would have the authority to either enact the legislation as printed or send it out to the voters for ratification.

Transparent Economic Development Subsidies (LD 1451). This bill implements the Maine Economic Development and Fiscal Accountability Act. Elements of this bill affecting municipalities are requirements to: (1) report all corporate property tax credits, abatements, exemptions and reductions provided by a local government; (2) submit a report annually regarding any real or personal property that received a property tax abatement

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or reduction during the previous year; (3) use a common application form developed by the Department of Economic and Community Development (DECD) for the purpose of considering any application for development subsidy which details the applicant's current inventory of employees and the wages and benefits they receive; and (4) submit an annual report to DECD, along with any corporate recipient of a development subsidy, documenting the jobs created and lost at the recipient company over the previous year, as well as changes in wage and benefit levels. This bill also creates a capacity to recapture the value of development subsidies previously provided if certain projected employment and wage/benefit increases are not achieved.

Workers' Compensation Law Amendments (1571). This bill makes a sweeping set of changes to the laws governing the state's workers' compensation program that are generally favorable to the interests of the employers. Among those changes, the bill: (1) provides full reimbursement to an employer from proceeds paid by a third party; (2) restructures the selection of the Workers' Compensation Board to allow the Governor to appoint two of the three labor representatives; (3) requires mediation to be requested by both the employer and the employee; (4) requires the employee to pay for the employee's physician if that physician is requested to attend an employer-required medical examination; (5) restructures the law governing the maximum duration of payments provided for partial incapacities; (6) requires overpayments made during the pendency of proceedings to be repaid; and (7) adjusts how lump-sum attorney's fees are calculated and prohibits the assessment of an attorney's fee for the amount of any settlement intended to pay for current or future medical costs.

Increase County Filing Fees (LD 1550). This emergency bill increases the fee by \$12 for recording an instrument of any kind, including plans, at all county registries of deeds.

Two-tiered Assessment Model (LD 305). This resolution sends out to the voters a proposed amendment to Maine's Constitution that would change the provision that requires all real and personal property to be "ap-

portioned and assessed" equally, according to its "just value". The amendment would continue to apply the "just value" standard for all taxable property, but it would authorize undeveloped land to be taxed at a different rate than buildings.

Improving Secondary Roads (LD 1367). This bill establishes the Secondary Roads Fund, which is designed to finance capital improvements to state aid minor collector roads. The bill dedicates several revenue sources to capitalize the fund, including the income generated by a new authority for the DOT to authorize the placement of off-premises signs within the right-of-way of an interstate highway, state highway or state aid highway. The fees collected for that newly allowed

advertising would also be placed in the Secondary Roads Fund.

Citizen Advisory Committee – Solid Waste Facility Siting (LD 693). This bill amends and expands legislation previously enacted that directed municipalities being considered for the siting of a solid waste disposal facility to establish a citizen advisory committee.

Municipal officials interested in receiving more information (if available) about any of the study, working group and carryover bills listed above should contact Kate Dufour at kdufour@memun.org or 1-800-452-8786 or review the resources available on MMA's website at: <http://www.memun.org/public/MMA/svc/SFR/default.htm>. [mt](#)

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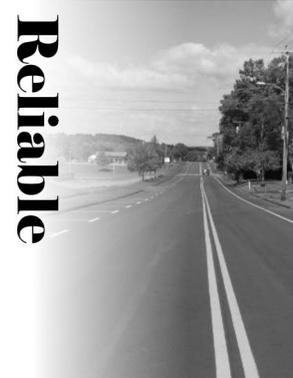
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Roy Gardner: Handling Flood Was ‘Highlight’

By Kathryn Olmstead

When Roy Gardner of Allagash began his service as the town's first selectman in 1958, teachers were earning \$21 a week and the town did not have the money to pay them.

“Wally Albert had a store, and he would hold the teachers’ checks until we had the funds to cover them,” Gardner said. “He might have to hold the checks a month.”

A year later, things were different in the Town of Allagash. As first selectman, Gardner established a school trust fund that assured Wally Albert could bank the teachers’ paychecks. And after a big fire that boosted the town’s insurance premiums, he established a fire trust fund that eliminated the need for insurance.

In the next few years, he approached the town’s two biggest employers and landowners – International and Great Northern paper companies – for advances on their taxes and received \$20,000 from each company. J.D. Irving, another timber company, owed the town money. Gardner talked to the firm’s Bangor office and the taxes were paid.

“After that, we were in pretty good shape,” he said. But his fund-raising initiatives did not end.

The town was owed 2.5 percent of revenues from the Allagash Wilderness Waterway but had not received payment for a number of years. That payment of accumulated funds added \$21,000 to the town coffers.

With 72,000 acres in forest land, Allagash was the biggest payer of Forest District taxes (\$30,000). Allagash

managed to get a bill through the state legislature to relieve the town of that tax burden, legislation that eventually was adopted for all municipalities.

FOREST FIRES BIG CONCERNS

Forest fires are a major concern for towns like Allagash. During Gardner’s service, the town paid up to 1.5 percent of its valuation for firefighting, after which the state picked up the cost.

“Our last big fire was in May 1992,” Gardner said. “The Maine Forest Service took over. They know where all the equipment is – spray planes, helicopters – and who to call.”

If not a fire, it might well be a flood demanding action from the three-member board of selectmen in Allagash. Gardner has always kept his eye

on the St. John River outside his door, and he has been an official monitor for the Water Resources Branch of the Department of Environment in Fredericton, N.B., for more than 30 years. When the ice begins to break up in the spring, the potential for ice jams threatens bridges and towns throughout the St. John River Valley.

In 1991, an ice jam on the St. John River took out two bridges and seven homes, sending water over the shores and roads of Allagash. The Army Corps of Engineers estimated the cost for recovery at \$15.5 million.

“FEMA (Federal Emergency Management Agency) had no money,” Gardner recalled, beginning to recount the series of events that led to a meeting with the President of the



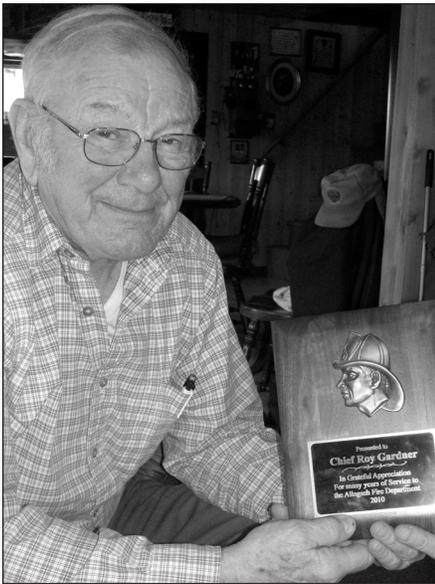
SPECIAL PROJECT, SPECIAL YEAR

Maine Municipal Association turns 75 this year and to celebrate we are producing a series of oral histories at our website (www.memun.org) and profile articles such as this month’s piece on long-time Allagash Selectman Roy Gardner. **Hear him in his own words.** Go to the MMA website, click on the 75th Anniversary logo in the upper left corner and follow the directions from there.

Earlier, this year, MMA asked members to nominate people who served their communities in various municipal roles over a long period of time. The response was overwhelming! Dozens of suggestions came in and everyone who was nominated will be recognized at the MMA Annual Convention, Oct. 5-6.

Nine subjects have been chosen for the in-depth oral history and profile project that began in the April edition of the Maine Townsman and runs through December. We hope you enjoy the project.

Kathryn Olmstead is a freelance writer from Caribou. Kathryn_Olmstead@umit.maine.edu.



Roy Gardner holds a plaque presented to him in 2010 "in grateful appreciation for many years of service to the Allagash Fire Department," which he started.

United States. Gardner received a call from the office of New York Sen. Daniel Patrick Moynihan, a member of the Senate Finance Committee, inviting him to Washington, D.C., to present the case for the Town of Allagash to the committee.

MEETING THE PRESIDENT

"Senator (Edmund) Muskie met me and we were talking in his office when two guys came in and stood on either side (of the room). Then in comes the President of the United States." There were greetings and introductions and Gardner was able to tell President George H. W. Bush what had happened to Allagash.

"We were talking just like you and I here," he said, as his wife, Maude, brought in a photograph of the gathering (including the two Secret Service men) autographed by the president. "He said he enjoyed Maine and would be in the state soon. It was right out of the blue. One (member of Sen. Muskie's staff) said 'I've been here six years and this is the first time I've seen the President come in.'"

From there, Muskie took Gardner to a meeting of the Senate Finance Committee, where Moynihan questioned him about conditions in Allagash. He detailed the damage and reported that FEMA needed \$15.5 million to help the town recover.

"Then Senator Muskie asked the

committee, 'And when might Mr. Gardner have an answer to his request?'"

"Could you give us five minutes?" the chairman replied.

Gardner said it took just about five minutes for the committee to confer and approve his request.

"That was the highlight of my career," he said unequivocally.

"There were good days and bad days," he said of his 43 years of service, "but it was a good experience. I liked the job, liked the challenge. I like to wheel and deal a little."

In the early years, the selectmen counted everything – cows, hens, horses. They weren't taxed, but they were counted. Taxes were levied for items

like chainsaws and television sets.

MOVING TO CONNECTICUT

Since those days, the population of Allagash has shrunk from 700 to less than 200 residents, one of the biggest changes Gardner has observed.

"There were people living all along the river. There's nobody here now. The town is shrinking up."

Acknowledging that out-migration also occurs elsewhere, he said so many townspeople moved to New Milford, Conn., they call it "Little Allagash."

"There was a time when no one could get a job. They sold their property for little or nothing," and moved to Connecticut where they made good money, Gardner said. "Some of them

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are making their way back.”

Gardner said the last year he assessed (2002), 52 percent of the landowners were non-resident, most from down-river towns like St. Agatha and Madawaska. Ten percent were from out of state.

“One year, there were 216 school children. Now there are 12 or 14 and they are hauled to Fort Kent. Times have changed a lot.”

One of 14 children, all born at home, Gardner remembers when local families all had cows, horses, hens and vegetable gardens.

“I was born right there in that room,” he says, pointing to a door in the living room furnished with comfortable overstuffed chairs. “You are sitting in the oldest house in Allagash.”

GARDNER FAMILY HOMESTEAD

The historic home was also his office when he was first selectman. Now owned by his son, who lives in Connecticut, the house has been passed down through six generations of Gardeners. It provided overnight accommodations for travelers in the 1800s and was a stop for the stagecoach that came through once a week.

“All 10 boys were in the service,” he said of his siblings, adding that of the six boys and two girls still living, all but two live in the Bangor area. Roy and Maude have four children, two in Connecticut, one in Rhode Island and one in Indiana.

From 1963 to 1967, Gardner worked for the U. S. Army Corps of Engineers and, as a federal employee, could not hold public office. As soon as he was available again, he was re-elected first selectman.

In 1969, the Corps enlisted his service as the local liaison for the controversial Dickey-Lincoln hydroelectric project to harness the power of the St. John River with a pair of dams. Since the job was part-time, Gardner was allowed to continue in his municipal role.

“I tried to keep a low profile,” he said. Townspeople did not want the project that would have put their community and 76,000 acres of the river valley under water.

“I stayed away from meetings” and there were plenty of them, as Sen. Muskie led the ultimately unsuccessful effort to win Congressional support for the project.

‘PEN PALS’

Gardner maintained a local office for the Corps and did primarily water quality work. Nonetheless, he became a target for angry letters from opponents of the project.

“The Corps called them my pen pals,” he said with a grin. He left the Corps in 1984, at age 62 and focused once again on his work as selectman.

“It was an everyday routine, a way of life,” he said. Among the challenges was his effort to persuade the town to purchase its own equipment to plow the 12 miles of town roads. Fires and floods are unpredictable, but snow is a certainty and removing it is a major expense in northern towns.

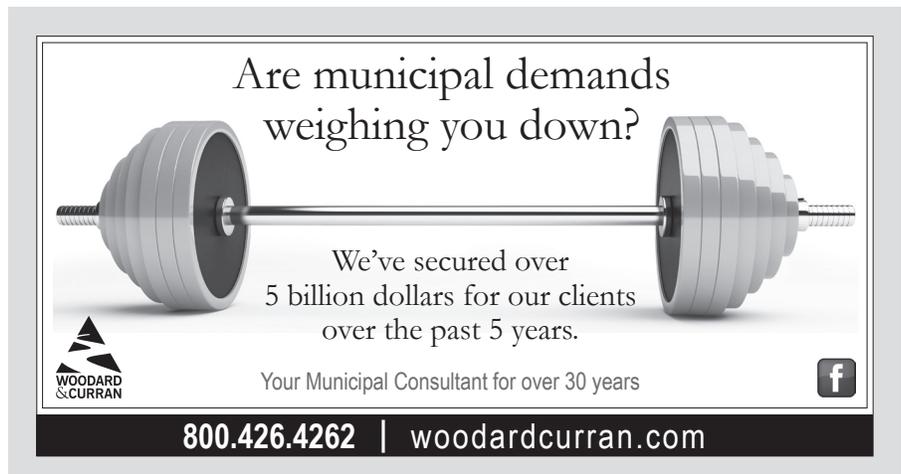
Gardner had figured out the long-

term cost benefit of buying used equipment from the state but townspeople turned it down. He had to yield to their preference for contracting the job.

He also had to yield to their preference for him as first selectman. Townspeople might have disagreed with some of his ideas, but they valued his leadership.

A year after he retired in 2000, he was working as election clerk. His name was not on the ballot, but his presence must have served as a reminder of his competence.

“They elected me on a write-in ballot and I didn’t even know it,” he said. He served two more years before retiring again in 2003. 



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Maine Municipal Association

2011 MMA CONVENTION

LEADERSHIP IN ACTION

Augusta Civic Center • October 5 & 6, 2011

DON'T MISS THESE SPECIAL FEATURES & EVENTS!



Keynote – Scott Paine

Municipal Leadership in the 'New Normal'

Wednesday, October 5 – 8:45-10:15 a.m.

Our special guest and keynote speaker is Dr. Scott C. Paine, a former City Councilor from Tampa, Fla. who is a widely recognized expert on local government leadership, the ever-changing cultural and political moods of our country and the communications revolution. Dr. Paine, who chaired the Communications Department at the University of Tampa, believes a lifetime of municipal service is among the highest callings one can pursue. And the challenge of leading a community has never been more difficult than it is now.



You Won the Election, Now What?

Wednesday, October 5 – 10:30-11:50 a.m. SPECIAL SESSION!

Elected Officials: This session, coordinated with the National League of Cities, provides the “seven key tools” that all officials – from the newly elected to the long-timers – need to lead their communities after waging successful election campaigns. How will you handle constituents pressing for more services? How can you accommodate the demands for your time? Learn the skills necessary to achieve your goals in office.

Presenter: Christine Piven, Director of Scheduling, City of Philadelphia, Penna.



Why Municipal Government Works Best

Thursday, October 6 – 8:45-10:00 a.m. SPECIAL SESSION!

Elected Officials: Please join renowned Canadian Economist Dr. Brian Lee Crowley as he shares his country's costly and failed efforts to force municipalities to regionalize – or “amalgamate,” as Canadians would call it. Crowley, a well-known television commentator and political expert in Ottawa, explains why municipalities are by far the most cost-effective, efficient level of government – and he has the data to prove it!

Presenter: Dr. Brian Lee Crowley, Managing Director, MacDonald-Laurier Institute, Ottawa, Canada.



How to Manage Conflict and Differences

Thursday, October 6 – 10:15-11:50 a.m. SPECIAL SESSION!

Elected Officials: Discover the difference between slow and fast-acting councils and select boards in relation to learning, synergy and making good decisions. Examine board communication and collaboration along a continuum of efficiency and value. How to move beyond, “If only ____ wasn't on the board, we'd be more effective.”

Presenter: Dr. Neil Katz, Professor Emeritus, Maxwell School of Citizenship and Public Affairs, Syracuse University, Syracuse, N.Y.

2011 MMA Convention

General Sessions & Events *(preliminary)*

Wednesday, October 5, 2011

7:30 a.m. Registration

7:30-8:30 a.m. Continental Breakfast in Exhibit Area

8:45-10:15 a.m.

WELCOME AND KEYNOTE

Municipal Leadership in the 'New Normal'

Our special guest and keynote speaker is Scott C. Paine, a former City Councilor from Tampa, Fla. who is a widely recognized expert on local government leadership, the ever-changing cultural and political moods of our country and the communications revolution. Dr. Paine, who chaired the Communication Department at the University of Tampa, believes a lifetime of municipal service is among the highest callings one can pursue. And the challenge of leading a community has never been more difficult than it is now.

10:15-10:30 a.m. Break & Time with Exhibitors

10:30-11:50 a.m. SPECIAL SESSION!

You Won the Election, Now What?

Elected Officials: This session, coordinated with the National League of Cities, provides the "seven key tools" that all officials – from the newly elected to the long-timers – need to lead their communities after waging successful election campaigns. How will you handle constituents pressing for more services? How can you accommodate the demands for your time? Learn the skills necessary to ensure that will achieve your goals in office.

Presenter: Christine Piven, Director of Scheduling, City of Philadelphia.

10:30-11:50 a.m. CONCURRENT SESSIONS

Understanding Your Audit

Money & Finance: Every municipality in Maine is required to undergo and produce an annual audit but that doesn't mean the process and results are necessarily easy to understand. Our experts provide tips on the audit process, how to analyze the results and what "red flags" to watch out for – before, during and after your audit is complete.

Presenters: Ron Smith, RHR Smith, Buxton; John S. Eldridge III, Tax Collector & Treasurer, Town of Brunswick.

Who's on First? The Current State of MUBEC

The recent legislative session left the statewide building code in a confusing and even contradictory status. Come hear our expert presenters advise what municipalities should do now, and whether municipal officials can expect improvements during the 2012 session.

Presenters: Geoffrey Herman, Director of State & Federal Relations, MMA; other panelists TBD.

11:50 a.m.-Noon Break & Time with Exhibitors

Noon-1:30 p.m. 75th ANNIVERSARY LUNCHEON!

Awards, incoming MMA President and recognition of Past Presidents.

1:30-1:45 p.m. Break & Time with Exhibitors

1:45-2:45 p.m. CONCURRENT SESSIONS

Say You Want a (Communication) Revolution? Well, You Know...

Elected Officials: How can selectmen, councilors and managers keep their eyes on running efficient, effective local governments and stay up with all the Tweeting, Facebook posting, website updating and instant messaging that's going on? Here is a candid, analytical look at the 21st Century communication revolution that's changing the world – and your hometown.

Presenter: Dr. Scott C. Paine, Professor, Communication Department, University of Tampa, Fla.

(*People who attend this workshop may also wish to attend "Social Media in the Workplace" on Thursday.)

Wrongful Termination & Harassment

Human Resources: Tight and even declining municipal budgets force managers and elected officials to make decisions about layoffs, reducing employee benefits and spreading more work around. Yet, these matters have to be handled properly and even delicately. Our experts offer useful advice.

Presenters: Attorneys Edward Benjamin Jr. and Mark Franco, Thompson & Bowie, Portland; Ann Willette, Risk Management Services, MMA.

Microsoft Excel Training: Tips & Tricks

Technology: Representatives from New Horizons, one of MMA's new, online-training partners, will demonstrate an online course on the top 10 tips and tricks in using Microsoft Excel. This is an exciting opportunity for attendees to experience and "test drive" the online-training environment.

2:45-3:15 p.m. TOUR OF MMA

Stroll over to the MMA building for a guided tour during our 75th Anniversary year!

2:45-3:15 p.m. Break & Time with Exhibitors

3:15-4:15 p.m. CONCURRENT PANELS

Citizen Education & the Municipal Literacy Project

Elected Officials: Last year, MMA, the City of Saco and Jobs for Maine's Graduates (JMG) used a \$5,000 Maine Community Foundation grant to launch a pilot high school civics project aimed at municipal government. This year, JMG expanded that to 59 more high schools across the state. Learn about the project and how it is changing the way young people view local government.

Moderator: Eric Conrad, Director of Communication & Educational Services, MMA; *Presenters:* Stephanie Weaver, Tax Collector, City of Saco; Kimberley Lipp, Jobs for Maine's Graduates; Hope Hall, journalism teacher, Thornton Academy.

Not Your Father's Health Care System

Money & Finance: Or your mother's. Or your grandparents'. Our panel highlights the whirlwind changes and proposals surrounding health-care quality and access in Maine and health-care benefits, which are the most important and costly benefits that municipalities provide employees.

Moderator: Steve Gove, Director, Maine Municipal Employees Health Trust, Deputy Director, MMA; *Presenters:* Elizabeth Mitchell, CEO, Maine Health Management Coalition; Frank Johnson, Executive Director, Maine Division of Employee Health & Benefits; Dr. Daniel P. Landry, MD, Spectrum Medical Group.

Rolling out Broadband

Technology: Many rural communities in Maine are about to gain expanded access, technical assistance and education about the benefits of broadband Internet service, part of major federal grants awarded in 2010. Come meet with the ConnectME staff and other project experts as they foreshadow the advancements that lie ahead.

Presenters: Phil Lindley, Executive Director, ConnectME Authority; Lisa Leahy, Associate Executive Director, ConnectME Authority.

Evaluating Town and City Managers

Online Training: Join MMA and its new web-training partner, MyPlaceToLearn, for a combination workshop and webinar demonstration – a first at an MMA Convention! This helpful session explains what to include, and what to avoid, in doing municipal managers' evaluations.

Presenter: Caryn Tilton, President and CEO, My Place to Learn, Inc.

4:15-6:00 p.m. 75th ANNIVERSARY CONCERT AND A CELEBRATION OF MAINE FOOD

Member Appreciation Reception and Concert by Downeast Brass Quintet – Exhibit Area

6:00-6:30 p.m. Fireworks Demonstration

Celebrate the MMA Convention, literally, with a bang! Our professional demonstrators show what commercially available fireworks have long been legal in Maine and which ones will become legal under a new state law that expands the types of fireworks that can be bought, sold and discharged.

6:30 p.m. Networking Dinner on Your Own

(Information Available at Registration Desk)

Thursday, October 6, 2011

7:00 a.m. Registration

7:15-8:30 a.m. Breakfast Buffet

75th Anniversary Breakfast Buffet in the Exhibit Area

8:00-8:30 a.m. MMA Business Meeting

8:45-10:00 a.m. SPECIAL SESSION!

Why Municipal Government Works Best

Elected Officials: Please join renowned Canadian Economist Dr. Brian Lee Crowley as he shares his country's costly and failed efforts to force municipalities to regionalize – or “amalgamate,” as Canadians would call it. Dr. Crowley, a well-known television commentator and political expert in Ottawa, explains why municipalities are by far the most cost-effective, efficient level of government – and he has the data to prove it!

Presenter: Dr. Brian Lee Crowley, Managing Director, MacDonald-Laurier Institute, Ottawa, Canada.

9:00-10:00 a.m. CONCURRENT SESSIONS

Online Accounts: How Safe Is Your Money?

Money & Finance: More municipal money than ever before is being deposited and withdrawn electronically, with the strokes of a few keys and the click of a mouse. Here are some hands-on ways to ease your comfort around online banking and accounting, with special tips for elected officials.

Presenters: Robert N. Brown, Jr., CPA, CFE, The CPA Solution, Bangor; Jennifer Seekins, Vice President for Treasury and Payment Services, Bangor Savings Bank.

Land Use Regulation & Property Rights

Another rapidly evolving area of Maine law centers on municipal regulation and property owners' rights. This workshop is a must-attend for municipal managers, Planning Board members, environmentalists and others who make important recommendations and decisions regarding municipal services and land use.

Presenters: Greg Connors, Legislative Advocate, MMA; other panelists TBD.

10:00-10:15 a.m. Break & Time with Exhibitors

10:15-11:50 a.m. SPECIAL SESSION!

Managing Conflicts and Differences

Elected Officials: Discover the difference between slow and fast-acting councils and select boards in relation to learning, synergy and making good decisions. Examine board communication and collaboration along a continuum of efficiency and value. How to move beyond, “If only _____ wasn't on the board, we'd be more effective.”

Presenter: Dr. Neil Katz, Professor Emeritus, Maxwell School of Citizenship and Public Affairs, Syracuse University, Syracuse, N.Y.

10:15-11:50 a.m. CONCURRENT SESSIONS

Capital Investment in Tough Times

Money & Finance: Planning and setting aside money for inevitable capital investments is difficult during a period when municipal leaders are turning over every rock for financial savings. Still, it can be done with prudent decision-making, priority setting and a communication strategy.

Presenters: Shana Cook Mueller, Attorney, Bernstein Shur, Portland; Robert Yandow, Manager, Town of York; David Hughes, Physical Engineer, Woodard & Curran.

Social Media in the Workplace

Human Resources: What do you do when your new employee spends too much time texting friends from his desk? Or, when an office worker updates her Facebook page on municipal time? Technology has made municipal government more efficient – but it also has the potential to offer more distractions. Here's a hands-on, manager-level workshop on how to prevent and address problems, without going too far.

Presenters: Scott Paine, Professor, Communication Department, University of Tampa; Michelle Beal, Manager, City of Ellsworth; Peter Lowe, Attorney, Brann & Isaacson, Portland.

Goodbye, Same Day Registration

Elected Officials: Last session, the Maine Legislature ended a 38-year practice of allowing voters to register on Election Day. While that might save some work on the big day, it's almost certain to add questions and even conflict next month.

Presenters: Julie Flynn, Deputy Secretary of State, Maine; Kate Dufour, Legislative Advocate, MMA.

11:50 a.m.-Noon: Break & Time with Exhibitors

Noon-1:20 p.m. Luncheon

1:20-1:30 p.m. Break & Time with Exhibitors

1:30-3 :00 p.m. CONCURRENT SESSIONS

Roles of Elected Officials & Municipal Managers

Elected Officials: This workshop is designed for new and long-time officials and managers from mid-to-large size municipalities. Building off a successful debut in 2011, our presenters explore how effective communication is the key to maintaining proper relationships among selectmen and councilors in towns with appointed managers. The panel also offers advice on how to handle important decisions that affect employees.

Presenters: Pam Plumb of Great Meetings! Inc., former Councilor and Mayor, City of Portland; Don Gerrish of Eaton Peabody Consulting, former Town Manager, Brunswick and Gorham; David Barrett, Director of Personnel Services & Labor Relations, MMA.

*Note: Presenters will be available for Q&A after the workshop.

Work Done Well: Celebrating Municipal Service!

Human Resources: Leave the 2011 Convention feeling good about yourself and your career in municipal government. Back by popular demand, motivational speaker John Jenkins shows how to keep your chin up during demanding, and pointedly critical, political times.

Presenter: The Honorable John Jenkins, former Mayor, City of Auburn and City of Lewiston.

Climate Change: Real and Here to Stay

From higher water levels to more ice and less snow, the data show climate change is affecting Maine and municipalities will be – and are – dealing with the consequences. This workshop is aimed at public works, emergency-management and other municipal officials who can learn from the trend lines and better plan for the future.

Presenters: Malcolm C. Burson, Climate Adaptation Program Manager, Maine Department of Environmental Protection; Liz Hertz, Land Use Team Manager, Maine State Planning Office.

3:00-3:30 p.m. TOUR OF MMA

Stroll over to the MMA building for a guided tour during our 75th Anniversary year!

3:30-4:30 p.m. Right to Know (At the MMA Conference Center)

Elected Officials: This session will review the rights and duties of public officials under Maine's Freedom of Access Act (FOAA), commonly known as the "Right to Know" law. It is designed to satisfy the training requirement imposed by State law on certain elected officials, including selectmen, councilors and elected clerks, treasurers, assessors and budget committee members.

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

E-Learning: A Virtual Classroom!

Wednesday, October 5 and Thursday, October 6

8:00 a.m.-11:50 a.m.; 1:30 p.m.-3 p.m.

Please join us in our Technology Center during these times to sample MMA's new E-Learning Center. Representatives from MMA and its web-training partners, MyPlaceToLearn and New Horizons, will be available to answer questions about cost-effective online training opportunities and to help you "test drive" e-learning courses. (*Laptops are also available for attendees to check email or access the Internet.*)

2011 MMA Convention

LEADERSHIP IN ACTION



Overnight Accommodations

Overnight Rooms have been blocked for MMA Convention attendees at the Best Western Plus in Augusta. The rate is \$70.00/night. To reserve your overnight room, please call 207-622-4751 and mention the Maine Municipal Association (MMA) group block. Rooms are available for reservation until September 20, 2011 on a first-come, first-served basis.

The Best Western Plus is located within the Civic Center Complex and is within walking distance to the Augusta Civic Center.

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.

Affiliate Group Programs

Maine Association of Assessing Officers

Wednesday, October 5

1:45-2:45 p.m. MMA/New Horizons Online Training: Microsoft Excel Tips & Tricks

3:15-4:15 p.m. MMA/MyPlaceToLearn Online Training: Conducting Municipal Managers' Evaluations – What to Include and What to Avoid

Thursday, October 6

9:00-10:00 a.m. Land Use Regulation & Property Rights

10:30-11:50 a.m. Social Media in the Workplace

Maine Chapter of American Public Works Association

Thursday, October 6

New Policies and Technological Advances: How They Help Public Works

8:30-9:30 a.m. The New Administration and Highway Simplification

9:30-10:00 a.m. Snow Control Technology: New Technology, Big Savings, Better Service

10:00-10:15 a.m. Break

10:15-10:45 a.m. Status of LD 1725

10:45-11:45 a.m. HP Fairfield: The Latest and Greatest

11:45-1:15 p.m. MCAPWA Luncheon, Augusta Elks Lodge

Maine Community Development Association

Thursday, October 6

8:30-10:00 a.m. Partners in Energy Efficiency: Shared Experience with Maine's New PACE Program

10:30-11:50 a.m. Municipal Energy Innovations: Meet the Early Adopters!

Maine Fire Service Institute & Maine Fire Chiefs' Association

Wednesday, October 5

Maine Fire Chiefs' Handbook Workshop

10:30-11:50 a.m. Legal Aspects of Fire Protection

1:30-3:00 p.m. Professionalism and Politics

Thursday, October 6

Maine Fire Chiefs' Handbook Workshop

10:30-11:50 a.m. Human Resources and Personnel Management

1:30-3:00 p.m. Financial Management and Planning

Maine Town & City Clerks' Association

Wednesday, October 5

8:45-10:15 a.m. Municipal Leadership in the 'New Normal'

10:30-11:00 a.m. Update from Vital Records office - Marty Henson

11:00-11:50 a.m. Review of Notary Public and Election laws–Julie Flynn from the Secretary of State's office

1:45-2:15 p.m. Update from Inland Fisheries & Wildlife

2:15-2:45 p.m. Update from Animal Welfare Program

2:45-3:15 p.m. Update from Maine State Archives

3:15-4:15 p.m. Open session with State agencies - personnel for Central Voter Registration, Vital Records EDRS and Informe (online vital records request & their credit card processing program, Payport) will be on hand with computers to show demos and answer questions.

Thursday, October 6

10:15-11:50 a.m. Goodbye, Same Day Voter Registration - Julie Flynn

1:30-4:00 p.m. Tour the offices of Vital Records and Secretary of State's Election Division-MTCCA Members Only

Maine Municipal Tax Collectors' & Treasurers' Association

Wednesday, October 5

10:30-11:50 a.m. Understanding Your Audit

1:45-2:45 p.m. MMA/New Horizons Online Training: Microsoft Excel Tips & Tricks

Thursday, October 6

9:00-10:00 a.m. Online Accounts: How Safe Is Your Money?

3:30-4:30 p.m. Right to Know (at MMA Conference Center)

Maine Town & City Management Association

Wednesday, October 5

7:00-8:30 a.m. MTCMA Executive Board Planning Meeting

8:45-10:00 a.m. Understanding Your Audit

10:30-11:50 a.m. You Won the Election, Now What?

1:45-2:45 p.m. Wrongful Termination & Harassment

Thursday, October 6

8:45-10:00 a.m. Why Municipal Government Works Best

10:30-11:50 a.m. How to Manage Conflicts and Differences

1:30-3:00 p.m. Roles of Elected Officials & Managers

Maine Welfare Directors' Association

Wednesday, October 5

1:45-2:45 p.m. Wrongful Termination & Harassment

Thursday, October 6

9:00-9:30 a.m. General Membership Meeting

9:30-10:30 a.m. Department of Corrections: Discharge plan from prisons/jails; How does the work release program work?

10:45-11:30 a.m. Municipal Work Program: MMA, GA Administrators, Workfare

1:30-3:00 p.m. Mental Health Issues: Behavior issues with clients; Dealing with difficult clients; How to detach yourself from being emotionally involved.

Attendee Registration Form



MMA Convention – Augusta Civic Center – October 5 & 6, 2011

One registrant per form (please photocopy for additional registrations)

Name of Municipality/Company/Agency:		First Time Attendee? <input type="checkbox"/> Yes <input type="checkbox"/> No
Mailing Address:		
Attendee Name:	Title:	
E-mail Address of Registrant:		
Telephone:	Fax:	
Name of Guest (not a municipal official/employee): <small>(Registration complimentary)</small>		Invoice guest meals to the same address as attendee? <input type="checkbox"/> YES <input type="checkbox"/> NO
Invoice Guest Meals to: <small>(Guest Meals Billing Address, if not the same as attendee)</small>		

SPECIAL PROGRAMMING – WED & THUR (Oct. 5&6) <input type="checkbox"/> MMA Building Tour (2:45-3:15) Wednesday, October 5 <input type="checkbox"/> MMA Building Tour (3:00-3:30) Thursday, October 6	THURSDAY SPECIAL PROGRAMMING (Oct. 6) Right-To-Know (3:30 p.m.-4:30 p.m.) MMA Conference Room <input type="checkbox"/> I WILL ATTEND
---	---

CONVENTION REGISTRATION FEES (For one or both days)		COST
<input type="checkbox"/> MMA Members	Pre-Registration - must be postmarked or received by 9-23-2011	\$ 60.00
<input type="checkbox"/> MMA Members	Registration - after 9-23-2011	\$ 75.00
<input type="checkbox"/> Non-member municipality/Gov't/or Non-profit	Pre-Registration - must be postmarked or received by 9-23-2011	\$ 75.00
<input type="checkbox"/> Non-member municipality/Gov't/or Non-profit	Registration - after 9-23-2011	\$ 100.00
<input type="checkbox"/> Business Representative	Pre-Registration - must be postmarked or received by 9-23-2011	\$ 100.00
<input type="checkbox"/> Business Representative	Registration - after 9-23-2011	\$ 125.00

Registration Fee \$

WEDNESDAY LUNCHEON-OCT 5	Location		Cost
Awards Luncheon (Buffet)	Civic Center	<input type="checkbox"/> Registrant	\$ 15.00
		<input type="checkbox"/> Guest	\$ 15.00
Wednesday Meal			\$

THURSDAY LUNCHEONS-OCT 6	Location		Cost
75th Anniversary Luncheon (Buffet)	Civic Center	<input type="checkbox"/> Registrant	\$ 15.00
		<input type="checkbox"/> Guest	\$ 15.00
Maine Chapter of American Public Works Association (MCAPWA)	Augusta Elks Lodge	<input type="checkbox"/> Registrant	\$ 17.00
Thursday Meal			\$

TOTAL (Registration Fee & Meals) \$

Signature: _____ Date: _____

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

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 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.

Annual Search

Nominees for the Maine Municipal Association's Most Prestigious Award

Deadline for Receipt of Nominees – 4:30 p.m. on Friday, September 2, 2011.
Award will be presented at the MMA Awards Luncheon on Wednesday, October 5, 2011.

Ethel N. Kelley

MEMORIAL AWARD

If you know a municipal elected or appointed official, employee or volunteer 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; and*
- ◆ *Is currently serving or has retired in the past two years*

MMA wants to know about them! Please take this opportunity to nominate this individual and give MMA the opportunity to recognize their achievement and dedication.

THE NOMINATION PROCESS: Nomination Forms can be downloaded from the MMA website at: www.memun.org. Please complete the Nomination Form and return it to MMA with up to five supporting letters. ***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. ***Start thinking about your Nominee now!***

THE JUDGING: The panel of judges will consist of three MMA Past Presidents who will meet in mid to late September to make their selection. The award will be presented during the Awards Luncheon being held in conjunction with the MMA Annual Convention.



Glenburn officials recently honored Town Clerk **Ruthena Brasslett** during a retirement party at town hall. Brasslett served Glenburn for 36 years. Brasslett, who grew up in Bradford, moved to Glenburn in 1969 and began her municipal career in 1974. At that time, she and the town manager were the only staff members. "In today's world, it is very rare to have such a talented and dependable employee serve a single employer for that long," selectmen Chairman **Michael O'Connor** said during the council's farewell to Brasslett.



John McNaughton

Former Falmouth Finance Director **John McNaughton** stepped down from the Maine Employees Health Trust Board of Directors after 14 years of service, the past four as chairman. "It has been an honor and privilege to serve on the Trust Board and I am thankful for the experience," said McNaughton, who recently retired from his municipal post in Falmouth. **Martin Puckett**, Town Manager for Mapleton, Chapman and Castle Hill in Aroostook County, has been appointed by the Trust board to fill the vacancy.

Southwest Harbor Town Manager **Robin Bennett** has resigned, effective June 30, after serving the town for about five years. Along with a severance deal, selectmen and Bennett agreed to a "non-disparaging" clause in the manager's termination agreement. Selectmen expected to start searching for an interim manager this summer.

Wilton Selectman Chairman **Terry Brann** defeated challenger Stephen Smith by a vote of 187-154 for a third three-year term on the board. Another incumbent, **Paul Gooch**, beat Paul Berkey Jr., 201-138, to win a third, three-year term. Newcomer **Scott Taylor** defeated three challengers to win the final open seat, which was vacated two years early by former Selectman

Irving Faunce, who resigned to take an out-of-town job.

Veteran volunteer **Timothy Brooks** was appointed as the new Buckfield fire chief effective June 30. Brooks, who replaces Steve Campbell, who recently resigned, was praised for his dedication to the volunteer department and his willingness to do more than expected over many years.

Rockport residents re-elected **William Chapman** to the Select Board with 216 votes, while electing **Geoffrey Parker** with 281 votes to replace **Thomas Farley**, who did not seek reelection. Three other candidates were defeated.

Waldoboro voters re-elected **Craig Cooley** to the Board of Selectmen with 286 votes, while former Selectman **Clinton Collamore Sr.** won the second open seat with 336 votes. Six other candidates, including incumbent Selectman **Robert Butler**, were defeated.

In a seven-person race for three seats on the Bar Harbor Town Council, incumbent **Ruth Eveland** won re-election with 445 votes. Newcomers **Robert Garland** and **Christopher Walsh** won the remaining two seats with 467 and 445 votes, respectively. Among the candidates who fell short in the election was incumbent Vernon "Sandy" McFarland, who received 263 votes. The three open seats included Eveland's, a vacant position, and the seat held by outgoing Councilor **Robert Jordan Jr.**

Camden voters elected **James Heard** and **Donald White Jr.** to the Select Board, while incumbent **Karen Grove** lost her bid for reelection with 340 votes. Heard collected 374 votes and White garnered 353.

Yarmouth voters elected three councilors in June, but neither incumbents nor former officials won the day. **Andrew Kittredge** was the top vote-getter with 565, followed by **Randall Bates** with 536 and **Leslie Hyde** with 391. Defeated were incumbent **Jim MacLeod**, who collected 371 votes, former Councilor **Mark Hough** and incumbent **Bill Schaffer**. Hough

received 305 votes, while Schaffer collected 299.

Audrey Lovering has been hired as Rockland's new community development director, succeeding **Rodney Lynch**, who retired effective June 30 after almost 15 years with the city. A Standish native with extensive education credentials, Lovering most recently worked as a development associate for the Portland-based Developers Collaborative. She is a past executive director of the Skowhegan Main Street project.

Portland Mayor **Nicholas Mavodones** announced he will seek election in November to the full-time job as mayor, created when residents voted last fall to change to an elected rather than appointed top councilor. Maine's largest city has not elected its mayor since 1923. Under the change, the elected mayor would work full-time for a four-year term with an annual salary of \$66,000.

Wendy Pelletier and **Jason Hall** received 204 and 193 votes, respectively, to replace Hope selectmen **Barbara Bentley** and **Mike Ames**, neither of whom sought reelection.

Michael Starn has been named manager of the City of Hallowell. Starn, who began his new duties in late June, worked for the Maine Municipal Association for nearly 35 years before retiring in 2010. Starn began his MMA career as a staff writer and worked his way up through the ranks to end his career as Director of Communication & Educational Services, including editing the *Maine Townsman*. Starn, a West Virginia native, replaces **Todd Shea**, who resigned to find a job closer to his home. He was named Arundel town manager in May. [mm](#)



Nicholas Mavodones



Michael Starn

Bangor: The city council in late June passed an \$88 million municipal/school budget for the 2012 fiscal year, which started on July 1, holding the property tax rate steady at 19.2 mills. Only one councilor, David Nealley, voted against the budget because he wanted a plan that would reduce the tax levy. The new budget calls for six municipal staff layoffs and no cost-of-living raises for the remaining employees. School positions also were eliminated and other changes made after the council sent back the school board's initial budget request.

Caribou: Damage from three tornadoes that tore through northern Maine in early June did not reach the \$1.65 million threshold for federal emergency disaster relief. County emergency management officials were trying to find other storm-related damage in Maine that might help the northern part of the state to qualify for help. As of late June, the damage had been estimated at \$1 million.

Ellsworth: Hancock County settled a police brutality lawsuit out of court for \$725,000 in June after a Deer Isle resident sued the county and Ellsworth police for having his shoulder broken by an off-duty sheriff's deputy in an altercation in a restaurant parking lot in November 2006. The man sued on grounds he should not have been arrested and was assaulted at the county jail, among other reasons. The county's insurance company, as well as the insurance company that covers two homes of people also involved in the fight – who are not public employees – will help pay the settlement, according to published reports. Initially, the Ellsworth police chief, the sheriff and jail administrator were named as defendants, but they were later dismissed by the judge. The victim underwent multiple surgeries as a result of his injuries.

Hallowell: The owner of the Kennebec Ice Arena that collapsed from heavy snow on its roof is seeking a 100 percent tax break to help rebuild the facility on Whitten Road, or \$1.22 million over 20 years. The city's TIF rules provide a maximum of 50 percent of tax revenue to be sheltered, with 60 percent

allowed with job creation. City officials are rewriting the rules to accommodate larger TIFs and city leaders will take up the issue later this summer. The arena is expected to cost \$4 million to replace.

Lyman: The towns of Lyman and Dayton hope to hire a full-time fire chief by late summer, now that the Goodwins Mills Fire Station has been expanded with new sleeping quarters and kitchen and office space. The fire station, under an agreement approved by voters in both towns, will be municipally operated and overseen by a six-member fire commission comprised of people from both communities. The towns also will hire four full-time firefighters under the plan endorsed by voters in June 2010.

Monhegan Plantation: A superior court justice ruled the state did not site a pilot offshore wind power turbine off Monhegan Island without meeting state laws and rules regulating where the tidal power turbines may be placed. A test turbine is expected to be installed about two miles off the island next summer as part of a larger tidal power project planned for 2017.

Norway: Special town meeting voters in late June approved appropriating an additional \$35,000 for the town's general assistance account. Last year, residents approved \$85,000 for needy people and families, but endorsed \$110,000 for the new fiscal year that begins July 1.

South Portland: Portland International Jetport officials are awaiting the go-ahead by the Federal Aviation Administration to divert commercial jets away from airport neighborhoods to flight approaches from over Peaks Island and Casco Bay. Critics of the use of one particular runway path say the jets pose not only a noise problem, but a safety issue as well for people in and around the airport neighborhoods.

Standish: The town council in June became Maine's first community to pass new zoning laws known as a "form-based code" that will allow all types of development in the downtown village – from commercial stores to condos. Officials hope the new rules, limited to the village district, will eventually transform the downtown to its yesteryear diversity. [mt](#)

NEW ON THE WEB

Here are some highlights of what's been added at www.memun.org since the last edition of the *Maine Townsman*.

- **Septic conference.** The Maine Association of Onsite Evaluators and the Rural Water Association will hold their second annual One-Day Maine Septic Conference in Richmond on Aug. 10, 11, 12, 17, 18 or 19, 2011. You can pick the date that works best for you. The sessions run from 8 a.m. to 4:30 p.m.
- **Facilitation skills.** Pam Plumb and Dee Kelsey of greatmeetings.com are offering a three-day training session on facilitation skills Sept. 26-28 at the University of Southern Maine's Center for Continuing Education.
- **ELearning Center.** MMA is pleased to offer a major expansion of web-based learning opportunities, working with partners MyPlace to Learn and New Horizons. The many training offerings are affordable and cover a wide range of topics, from leadership skills for elected officials to advanced information technology training, and many things in between. Please click the "Training and Workshops" link and follow instructions from there.
- **Celebrating service.** MMA, as part of its 75th Anniversary, is recognizing many officials for their tireless years of public service. Oral histories – first-person interviews – can now be heard at the website. Walter Foster of Friendship, Linda Boudreau of South Portland, Kenneth Michaud of Fort Kent and Roy Gardner of Allagash are the first four subjects whose interviews are available for listening.



Municipal Bulletin Board

FIRE CHIEFS IN HOPE

The Maine Fire Chiefs Association will hold a Membership Meeting and Networking Luncheon on July 21 at the Hope Fire Station, 475 Camden Road (Route 105). All chiefs are welcome.

The event begins at 9 a.m. and ends with a lobster bake or steak at noon. The fee is \$35 for members who register before July 15 and \$45 for registrations that come after that. MFCA has reserved a block of rooms at the Towne Motel for July 20-21 as well.

VITAL STATISTICS: ORONO

The Maine Town & City Clerks' Association will sponsor a workshop on Vital Statistics, Aug. 8 from 8:30 a.m. to 4 p.m. at the Orono Black Bear Inn. Patty Brochu, City Clerk in Old Town, will present the workshop.

This is a one-day workshop that provides municipal clerks with an overview of the law, rules and regulations concerning vital records in Maine. Theresa Roberts and Samantha Walker of the Maine State Office of Vital Records also will present. The workshop will cover birth, marriage and death records, among other topics.

The cost is \$50 for MTCCA members and \$60 for non-members. Scholarship information is available by contacting Patricia Gray (207-288-4098) or through the MTCCA website.

NEW CLERKS: AUGUSTA

The Maine Town & City Clerks' Association also will hold a New Clerks Workshop on Aug. 16 at the MMA Conference Center in Augusta. April Dufosse, Town Clerk in Kennebunkport, and Kim McLaughlin, Town Clerk in Old Orchard Beach, will co-present. The workshop starts with registration at 8:30 a.m. and concludes at 4 p.m.

The course is designed to familiarize newly elected and appointed municipal clerks with their duties and responsibilities. Information will be relevant to clerks from both large and small municipalities. Among the topics to be covered: dog licensing; hunting & fishing licenses; election procedures;

and, state monthly reporting procedures.

Cost is \$50 for MTCCA members and \$60 for non-members. The fee includes breakfast, lunch and workshop materials.

66TH ANNUAL MANAGEMENT INSTITUTE

Nationally recognized speaker Craig R. Rapp will keynote the 66th Annual New England Management Institute, which will run from Aug. 24-26 at the Sebasco Harbor Resort in Sebasco Estates, Maine. Rapp, who serves as Director of Local Government Solutions and ICMA Consulting Services, will speak on the opening day, Aug. 24.

The three-day institute includes many renowned Maine speakers and addresses a wide number of issues including: applying ethics to an organization; understanding financial reports; excellence and high performance in local government; energy sustainability; municipal shared services; and, dealing with public distrust.

Costs vary depending on buffet and banquet selections, overnight accommodations and the like, but the full conference fee is \$135 and there is no additional charge for guests. The deadline to pre-register for the event is Aug. 15. Many details about the Institute, accommodations options and leisure options are available through the MMA website, www.memun.org.

ELECTED OFFICIALS: PRESQUE ISLE, ELLSWORTH

MMA officials will hold Elected Officials Workshops on Sept. 13 in Presque Isle and Oct. 18 at the Ramada Inn in Ellsworth. Both workshops will run from 4:30 to 8:30 p.m. and include light meals. Registration begins at 4 p.m.

The workshops are "musts" for both newly elected and veteran officials as they provide updates to legal requirements regarding: your rights as officials; open meeting requirements; conflicts of interest; liability issues; and, the Maine Freedom of Access law. Officials who attend the sessions meet the state's Right to Know training requirements and receive certificates. A section on media relations and communications recently was added.

The cost is \$40 for MMA members and \$60 for non-members. Registration is available through the MMA website at www.memun.org.

PLANNING BOARDS/BOA: ELLSWORTH

Rebecca Seel, an attorney from MMA's Legal Services Department, will take her show to the Ramada Inn in Ellsworth on Sept. 20 to discuss many issues confronting Planning Boards and Boards of Appeal. The workshop begins with registration and a light meal at 5:30 p.m. and ends at 9 p.m.

These workshops are designed for relatively new Planning Board/BOA members but long-time members can benefit from the updates as well. Among the topics to be addressed: jurisdictional issues; conflict of interest and bias; site visits; deadlines; nature of evidence upon which to make decisions; and, more.

The cost of the workshop is \$40 for MMA members and \$60 for non-members. Special note: The Board of Appeals Manual and Planning Board Manual are being revised. They will be available later in the year. In the meantime, the 1999 edition of the Planning Board Manual (with 2004 updates) and the 2010 Board of Appeals Manual are available for free online at www.memun.org. 

All of the upcoming workshops can be found on the MMA website. Use the following link:

<http://www.memun.org/public/MMA/svc/training.htm>

POLYGRAPHS & EMPLOYEES

Question: What are the limitations, if any, on the use of polygraph (“lie detector”) exams in an employment setting?

Answer: Maine law expressly prohibits an employer from directly or indirectly requiring, requesting or suggesting that an applicant for employment submit to a polygraph exam as a condition of employment (see 32 M.R.S.A. § 7166(1)). The law also prohibits an employer from using or referring to the results of a polygraph exam for hiring purposes.

The same goes for current employees (see 32 M.R.S.A. § 7166(2)). No employer may directly or indirectly require, request or suggest that an employee submit to a polygraph exam as a condition of employment, or use or refer to the results of a polygraph exam for employment purposes.

There are two exceptions to these limitations (see 32 M.R.S.A. § 7166(3)). First, they do not apply to employees of or applicants for employment with law enforcement agencies.

Second, they do not prohibit an employee from voluntarily requesting a polygraph exam or an employer from using or referring to the results as long as the results are not used against the employee and as long as the employee has been given a copy of the law and the exam is recorded or a witness is present, or both, as the employee requests. Due to its complexity and the potential pitfalls, however, this exception should not be used without first consulting a competent attorney or human resources professional. (By R.P.F.)

FACSIMILE SIGNATURES FOR TAX & SEWER LIENS

Earlier this year we noted that the law authorizes facsimile signatures for some tax lien and sewer lien documents but not for tax lien discharges or sewer lien certificates or discharges (see “Facsimile Signatures,” *Maine Townsman*, “Legal Notes,” April 2011). The rationale for this distinction has never clear to us, but we no longer have to wonder – the law has since been changed.

Public Law 2011, c. 104 (eff. September 28, 2011) amends 36 M.R.S.A. § 943 and 38 M.R.S.A. § 1208, respec-

tively, to authorize the use of facsimile signatures for tax lien discharges and sewer lien certificates and discharges as well. (Facsimile signatures were already authorized for tax lien notices and certificates and sewer lien notices.) The new law now makes a facsimile signature legal for all types of tax lien and sewer lien documents.

Where other statutes are silent on the use of a facsimile signature, however, our earlier advice remains the same: Only an original signature will suffice. This applies to town meeting warrants, treasurer’s disbursement warrants and subdivision plats, among many other examples. (By R.P.F.)

RETROACTIVE ORDINANCES – A NEW LEGAL RESTRICTION

As we’ve noted here before, a land use ordinance can be made applicable retroactively to a permit application already pending at the time of enactment (see “Retroactive Ordinances,” *Maine Townsman*, “Legal Notes,” March 2007). A new law restricts the retroactive reach of ordinances when it comes to land use permits already granted, however.

Public Law 2011, c. 63 (eff. September 28, 2011) enacts 30-A M.R.S.A. § 3007(6), which preempts municipalities from nullifying or amending a municipal land use permit by subsequent enactment, amendment or repeal of

an ordinance more than 45 days after the permit has received final approval. (For the record, we’re not aware of any municipality in Maine ever attempting to do this, but never mind.)

A “municipal land use permit” includes a building permit, zoning permit, subdivision approval, site plan approval, conditional use approval, special exception approval, or other land use permit or approval. “Nullify or amend” means to nullify or amend a permit directly or to nullify or amend any other permit in a manner that effectively nullifies or amends the permit.

The new law does not alter or invalidate ordinance provisions that provide for expiration or lapse of a permit or approval after the expiration of a certain period of time. Nor does it alter the rule that ordinances may be made applicable retroactively to pending permit applications. It protects only permits that have been finally approved and only after 45 days have elapsed.

For more on ordinance retroactivity, see MMA’s “Information Packet” on moratorium ordinances (where the subject of retroactive application often arises), available free to members at www.memun.org. (By R.P.F.)

RECORDING DEADLINES FOR SUBDIVISION PLANS

A new law prohibits a municipality

 MMA Municipal Calendar

BY AUGUST 1 — Urban Rural Initiative Program (URIP) 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).



from requiring less than 90 days for the recording of an approved subdivision plat or plan in the registry of deeds.

Public Law 2011, c. 245 adds a new section (§ 4408) to the municipal subdivision law (30-A M.R.S.A. §§ 4401-4407). In a single sentence, the new law preempts municipalities from establishing a deadline of less than 90 days for the recording of approved plans. An ordinance or regulation requiring recording within 90 days after final approval presumably complies since this deadline is not less than 90 days.

Subdivision ordinances or regulations that do not comply should be amended no later than September 28, 2011, the effective date of the new law.

Any sale or other conveyance of lots or dwelling units in a subdivision that has not been approved by the municipal reviewing authority (planning board) and recorded in the registry of deeds is, of course, a violation of the municipal subdivision law (see 30-A M.R.S.A. § 4406(1)). Subdivision violations are punishable under 30-A M.R.S.A. § 4452, the same penalties as apply to most land use violations. Proceedings to enforce the subdivision law may be brought by the Attorney General, the municipality or the planning board.

For more on the municipal subdivision law, including a detailed outline with citations to court cases, see Appendix 3 of MMA's *Planning Board Manual*, available free to members at www.memaun.org. (By R.P.F.)

INFORMED GROWTH ACT NOW A MUNICIPAL OPT-IN

The Informed Growth Act (IGA), enacted by the Legislature in 2007 and mandating local planning board review of "big box" retail development based on its potentially adverse economic impact, has effectively been repealed.

Public Law 2011, c. 89 (eff. September 28, 2011) amends the IGA to make local participation voluntary. The IGA does not apply now unless a municipality adopts an ordinance specifically adopting by reference the provisions of 30-A M.R.S.A. §§ 4365-4372. Thus ends State-ordered local review that many lo-

cal officials perceived as heavy-handed, overly narrow, an infringement on municipal home rule, and an impediment to economic development and competition.

The new law also makes a variety of other changes to the IGA which generally relax the standards and requirements for review of big box retail under the law if a municipality opts to

administer and enforce it.

As a broader alternative for local review of major commercial, industrial and institutional development, we suggest a site plan review ordinance. For details and several samples, see the Maine State Planning Office's *Site Plan Review Handbook*, available free at www.maine.gov/spo (enter "site plan review" in the search feature). (By R.P.F.)



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