



LEGISLATIVE BULLETIN

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Legislature Adjourned

For now, anyway.

Last evening, the Maine State Legislature adopted LD 424, *An Act Making Certain Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government*, sponsored by Rep. Melanie Sachs of Freeport. By adopting the so-called baseline budget and adjourning “without day,” the legislature has authorized the spending necessary to fund government operations as of July 1, 2023, thereby avoiding a state shutdown.

Of great relief to local governments the budget includes funding for many important programs, including 55% of the cost of K-12 education, reimbursement for the homestead exemption and the senior property tax stabilization programs, and an appropriation authoring 5% of state sales and income tax revenue to be shared with towns and cities.

However, adoption of the baseline budget, which does not include funding for new programs, was hard fought and adopted along party lines. The desire among legislators opposed to LD 424 was to continue to work collaboratively on the development and adoption of a bipartisan budget. To many, passage of a majority budget ignores the voices of thousands of voters across the state.

It is important to note that while bills adopted with an emergency preamble become effective law upon the signature of the governor, all other bills become law 90 days after the legislature finally adjourns, which is June 29, 2023. Rightfully so, the adoption of emergency legislation comes with a high bar by requiring a 2/3 majority vote of the members in the House and Senate.

Because the budget was adopted without an emergency preamble, the legislature finally adjourned the first regular session in an effort to run down the 90-day clock, ensuring the funding necessary to operate state government is available as of July 1.

Prior to adjournment, however, the legislature adopted a joint order providing “that all matters not finally disposed of at the time of adjournment of the First Regular Session of the 131st Legislature in the possession of the Legislature...be held over to a subsequent special or regular session of the

131st Legislature in the posture in which they were at the time of adjournment of the First Regular Session of the 131st Legislature.” The joint order further authorized “that any public hearing, work session or other meeting to conduct the business of the Legislature that is scheduled at the time this order is passed is hereby authorized to occur.”

In a nutshell, all items remaining on the “to do list” will be waiting for members of the House and Senate when they return.

However, the reconvention of the legislature is not without a significant hurdle. Absent a directive from the governor calling the members of the House and Senate back to work, a majority of the members of each party must vote to return. A poll of that nature failed last evening.

Increasing Revenue Sharing

While House and Senate leaders were securing the votes necessary to pass the baseline biennial General Fund budget, several committees were dutifully conducting public hearings and work sessions on the several bills remaining on their dockets. Of interest to municipalities were two proposals seeking to increase the amount of state revenues shared with municipalities.

LD 1060, *An Act to Support Municipal Public Safety by Increasing State-Municipal Revenue Sharing to 7 Percent*, sponsored by Senate President Troy Jackson of Aroostook County, as its title suggests, seeks to increase the amount of state sales and income tax revenue distributed to municipalities under the state/municipal revenue sharing program. The bill further stipulates that the revenue generated by the 2% bump, roughly \$102 million, is to be used to fund fire, law enforcement and emergency medical services operations.

The sponsor’s intent is to ensure that all residents have access to vital public safety services and during the public hearing expressed an interest in finding the right mechanism for funding those programs, whether via LD 1060 or

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Increasing Revenue Sharing...cont'd

another initiative.

Although MMA submitted testimony “neither for nor against” the bill, one member of the Taxation Committee suggested that the Association opposed the bill.

Nothing could be further from the truth.

What the testimony imparted, with apologies to the sponsor for the more stringent than necessary tone, was the municipal community’s cautious ap-

preciation for the proposed increase. The concerns raised in the testimony focused on the long-term and unintended consequences associated with placing strings on the use of these revenues; whether the amount distributed via the program would be sufficient in each community to fund much needed public safety services; and the state’s ability to sustain the enhanced funding in perpetuity.

Regardless of these concerns, MMA remains eager to work with Sen. Jackson and members of the committee to find

the approach necessary to relieve the pressures placed on property taxpayers.

The other bill, LD 793, *An Act to Support Municipal Services with Revenue Sharing*, provides municipalities with an option to choose between receiving the revenues distributed under the historic revenue sharing program or the equivalent of 10% of the sales tax revenue generated in the community.

In a somewhat cynical take on what motivates municipal leaders, the bill’s sponsor, Senator Eric Brakey of Androscoggin County, testified that the change proposed in the bill would encourage municipal leaders in all communities to focus attention on economic development efforts to increase transfers to municipal coffers. He further testified that the bill needed to be amended to clarify that the intent was not to provide a choice, but rather require the state to either distribute to each municipality the amount calculated by the revenue sharing formula or 10% of generated sales tax revenue, whichever is greater.

Coincidentally, that clarification addresses the municipal community’s preference for legislation that seeks to increase state support for Maine’s service center communities, without adversely impacting all other communities.

Work sessions on both bills will take place on Thursday, April 6 at 1:45 p.m.

Hearings of The Week: Trash Fees & FOIA

Municipal Solid Waste Fees. The Environment & Natural Resources Committee will conduct a public hearing on LD 1171, *An Act to Raise Funding to Support Waste Reduction, Reuse, Recycling and Composting in Maine* on **Wednesday, April 5 at 1:00 p.m.** in room 216 of the Cross Office Building. The bill, sponsored by Rep. Art Bell of Yarmouth, increases from \$2 per ton to \$7 per ton the fee imposed on the disposal of municipal solid waste, municipal solid waste ash, construction and demolition debris and residue from the processing of construction and demolition debris.

Freedom of Information. The Judiciary Committee will conduct public hearings on two bills seeking amendments to the Freedom of Information Act. LD 1203 and LD 1208, described below, will be heard on **Monday, April 3 at 10:30 a.m.** in room 438 of the State House.

LD 1203, *An Act to Clarify Deadlines in the Freedom of Access Act and Disclosure Provisions in the Intelligence and Investigative Record Information Act*, sponsored by Rep. David Boyer of Poland amends the Freedom of Access Act to: (1) require public entities to respond to a records request within 30 days of receipt; (2) authorize the public access officer to give priority to a records request from a Maine resident or a journalist acting in the capacity of gathering information to disseminate to the public; and (3) amend the invasion of personal privacy provisions to allow the disclosure of information upon consent of the individual or if deceased, incapacitated or a minor by a family member, who is the subject of the record.

LD 1208, *An Act to Implement the Recommendations of the Right To Know Advisory Committee Concerning Time Estimates for Responding to Public Records Requests*, reported by Rep. Matt Moonen of Portland, clarifies that an agency or official must specify the estimated time frame within which the entity will comply with a request for public records, and increases the cost threshold for when an agency or official must inform a requester of the estimate cost before proceeding with a request from \$30 to \$50.

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Editorial Staff: Kate Dufour, Rebecca Graham, Rebecca Lambert and Laura Ellis of Advocacy & Communications.

Layout: Sue Bourdon, Advocacy & Communications



HEARING SCHEDULE

For the week of April 3, 2023

MONDAY, APRIL 3

Agriculture, Conservation & Forestry
Room 214, Cross Building, 9:00 a.m.
Tel: 287-1312

LD 1121 – An Act to Change Responsibility for Animal Control Officer Training to the Department of Public Safety

LD 1162 – An Act to Protect the Environment by Funding Ash Tree Management

LD 1216 – An Act to Create the Animal Cruelty Task Force

Criminal Justice & Public Safety
Room 436, State House, 1:00 p.m.
Tel: 287-1122

LD 22 – An Act to Impede the Transfer of Firearms to Prohibited Persons

LD 60 – An Act to Require a 72-hour Waiting Period After the Sale of a Firearm

Education & Cultural Affairs
Room 208, Cross Building, 10:00 a.m.
Tel: 287-3125

LD 51 – An Act to Restore Religious and Philosophical Exemptions to Immunization Requirements

Health & Human Services
Room 209, Cross Building, 10:00 a.m.
Tel: 287-1317

LD 600 – An Act to Expand Availability of Naloxone Hydrochloride

LD 813 – Resolve, to Study Methods to Increase Access to Medication-assisted Treatment for Substance Use Disorder

LD 1094 – An Act Regarding the Allocation of Funds Awarded to Maine Due to the Opioid Settlement

Judiciary
Room 438, State House, 10:00 a.m.
Tel: 287-1327

LD 1015 – Resolve, Establishing the Commission to Study the Foreclosure Process

TUESDAY, APRIL 4

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

LD 1232 – An Act to Increase Adoption of Solar Power in Maine

Innovation, Development, Economic Advancement & Business
Room 202, Cross Building, 1:30 p.m.
Tel: 287-4880

LD 941 – An Act Facilitating the Efforts of the Midcoast Regional Redevelopment Authority and the Town of Brunswick to Design and Carry Out Improvements to the Storm Water System and Other Infrastructure at the Former Brunswick Naval Air Station

LD 1198 – Resolve, Directing the Department of Economic and Community Development to Convene a Working Group to Improve the State's 10-year Economic Development Strategy

Joint Select Committee on Housing
Room 216, Cross Building, 1:00 p.m.
Tel: 287-4149

LD 2 – An Act to Address Maine's Housing Crisis

Judiciary
Room 438, State House, 10:30 a.m.
Tel: 287-1327

LD 1149 – RESOLUTION, Proposing an Amendment to the Constitution of Maine to Strengthen the Due Process Rights of Persons Accused by Requiring Notification of Those Rights

LD 1203 – An Act to Clarify Deadlines in the Freedom of Access Act and Disclosure Provisions in the Intelligence and Investigative Record Information Act

LD 1208 – An Act to Implement the Recommendations of the Right To Know Advisory Committee Concerning Time Estimates for Responding to Public Records Requests

Labor & Housing
Room 202, Cross Building, 1:00 p.m.
Tel: 287-1331

LD 949 – An Act to Protect Workers from Employer Surveillance

LD 1152 – An Act to Make Long-term Disability Insurance Coverage Available to Public Employees

LD 1206 – An Act to Create a Grant Program for Workplace Health and Safety Improvements

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

Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules for hearings and work sessions can be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>. There is also the option to testify via Zoom if you register 30 minutes in advance. Persons wishing to testify over Zoom can submit their testimony by uploading it through the registration portal (<https://www.mainelegislature.org/testimony/>).

LD 1069 – An Act Requiring a Referendum to Restore the Former Maine Flag

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

LD 1076 – An Act to Expand the Use of Traffic Cameras for School and Work Zones

LD 1093 – An Act to Create a Seasonal Gas Tax Exemption and Rate

LD 1141 – An Act to Improve Access and System Preservation by Providing Shoulders and Bicycle Lanes on State Roadways Leading to State Parks and Other Significant Destinations

LD 1142 – An Act to Eliminate Motor Vehicle Registration Fees for Volunteer Firefighters and Volunteer Emergency Medical Services Providers

WEDNESDAY, APRIL 5

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

LD 596 – An Act to Exempt Certain Conservation Lots from Municipal Subdivision Review

LD 1126 – Resolve, to Increase Community Action Grants

LD 1171 – An Act to Raise Funding to Support Waste Reduction, Reuse, Recycling and Composting in Maine

LD 1172 – An Act to Reestablish Annual Reporting on Solid Waste in Maine

LD 1246 – An Act to Include Endangered and Threatened Species Habitat in the

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HEARING SCHEDULE (cont'd)

For the week of April 3, 2023

Definition of "Significant Wildlife Habitat" Under the Natural Resources Protection Act

Taxation

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

Tel: 287-1552

LD 1153 – An Act to Allow Municipalities to Tax Personal Solar Energy Equipment Under 5 Megawatts

LD 1202 – An Act to Increase the Homestead Exemption to \$50,000

LD 1258 – An Act to Increase the Personal Property Tax Exemption for Farm Machinery

Veterans & Legal Affairs

Room 437, State House, 1:00 p.m.

Tel: 287-1310

LD 410 – An Act Regarding the Nuisance of Cannabis Plants and Smoke in Residential Areas

LD 1070 – An Act to Increase Ballot Transparency with Blockchain Technology

LD 1071 – An Act to Allow Political Candidates to Be Nominated by Multiple Parties for the Same Office

LD 1255 – An Act to Improve the Security of Voting Places

THURSDAY, APRIL 6

Judiciary

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

Tel: 287-1327

LD 783 – An Act to Protect Certain Private Emergency Services Personnel from Liability Under the Maine Tort Claims Act

LD 1251 – An Act to Clarify Immunity from Liability for Municipalities Engaged in Recycling Activities

Labor & Housing

Room 202, Cross Building, 1:00 p.m.

Tel: 287-1331

LD 651 – An Act to Amend the Standards for Manufactured Housing to Comply with United States Department of Housing and Urban Development Standards

LD 1123 – An Act to Create a Presumption That a Cardiovascular Injury or Disease or Pulmonary Disease Suffered by Certain Law Enforcement Officers Is in the Course of Employment

LD 1193 – An Act to Allow Residents of Low-income Housing to Keep Pets

Marine Resources

Room 206, Cross Building, 1:00 p.m.

Tel: 287-1337

LD 563 – An Act to Assert State Sovereignty over Ocean Waters up to 12 Nautical Miles off the State's Coast

Transportation

Room 126, State House, 1:00 p.m.

Tel: 287-4148

LD 1122 – Resolve, to Rename Bridges in the Town of Cornish

LD 1140 – Resolve, Directing the Department of Transportation to Allow All-terrain Vehicle Traffic on a Section of Trail in the City of Caribou

LD 1210 – An Act to Establish a Maine Highway Capital Fund to Provide Consistent Funding for the Construction and Repair of Maine's Roads and Bridges

LD 1242 – An Act to Eliminate Certain Motor Vehicle Inspections

IN THE HOPPER

Environment & Natural Resources

LD 596 – An Act to Exempt Certain Conservation Lots from Municipal Subdivision Review (Sponsored by Sen. Pierce of Cumberland Cty.)

This bill amends the laws governing subdivisions to provide that, unless the intent of a transferor is to avoid the objectives of those laws, the division of a tract or parcel of land accomplished by the transfer of any interest in the land to a holder does not create a lot or lots provided the transferred interest, as expressed by conservation easement, binding agreement, declaration of trust or otherwise, is to be permanently held for conservation purposes, including: (1) retaining or protecting the natural, scenic or open space; (2) ensuring the availability of the land for agricultural, forest, recreational or open space use; (3) protecting natural resources; or (4) maintaining or enhancing air quality or water quality. Under the terms of the bill, a "holder" means a governmental body empowered to hold an interest in real property or a nonprofit corporation or charitable trust with related natural resources protection purposes or powers.

LD 1172 – An Act to Reestablish Annual Reporting on Solid Waste in Maine (Sponsored by Rep. Bell of Yarmouth)

This bill requires the Department of Environmental Protection to annually, rather than biennially, submit reports to the Legislature and Governor regarding the statewide generation of solid waste, recycling rates and the capacity for disposing the generated waste. The bill also requires municipalities to submit recycling progress reports to the department on an annual, rather than biennial, basis.

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

Labor & Housing

LD 949 – An Act to Protect Workers from Employer Surveillance (Sponsored by Rep. Roeder of Bangor)

This bill prohibits employer surveillance unless the surveillance is strictly necessary for employee health and safety or the security of the employer, with certain limitations. It requires employers to provide, upon a verifiable request by an employee, data collected on the employee and certain information regarding that data. It specifies that an employer must provide notice to its employees prior to beginning employer surveillance. It provides that an employee has a private right of action.

LD 1123 – An Act to Create a Presumption That a Cardiovascular Injury or Disease or Pulmonary Disease Suffered by Certain Law Enforcement Officers Is in the Course of Employment (Sponsored by Sen. Lawrence of York Cty.)

Buyers Beware

This week the Committee on Transportation heard several bills that would strip Maine's long-standing reliance on federal motor vehicle inspection standards with wide sweeping implications. While MMA didn't have positions on several of the bills presented, it soon became abundantly clear that the state's sensible approach to road infrastructure, the majority of which is funded by municipal operations in balance with personal desire, was in peril.

For arguably the first time in multiple decades, both state and municipal subject matter experts were treated by new committee members as special interests, rather than their experienced and knowledgeable partners. When it came to the operation of foreign and decommissioned military vehicles that have never met federal safety standards (FMSS) and are not well suited to operate over maintained local and state roads, the committee seemed to listen to the advice offered by owners of these vehicles.

LD 369, *An Act to Allow Repurposed Military Vehicles to Be Registered and Operated on Maine Roads*, sponsored by Sen. James Libby of Cumberland County, would allow any demilitarized vehicle under 10,000 pounds to be registered as a motor vehicle and operated on Maine roads, including vehicles that have never met federal motor vehicle safety standards and are currently only recognized as "off road vehicles."

While municipalities through their public safety operations have frequently been "gifted" such vehicles for their law enforcement, search and rescue and fire operations, the value of the gift has often fallen short of the annual reporting requirements and usefulness of the vehicles explicitly built for combat operations. As a result, the private market has been flooded with demilitarized vehicles constructed with developing world conditions in mind, not operation over developed roads.

Enter the unregulated market of

private sales, New Hampshire, and the ancient Roman concept of "caveat emptor."

As a maxim of the early common law, the rule that the buyer must beware of all aspects of a sale was well suited to buying and selling on the open marketplace or among close neighbors. While it is easy to relate to the increasing complexity of modern commerce, and the burden it has placed on the buyer who remains at a disadvantage, it does not, and should not, become the public's problem for the failure of an individual who is forced to rely more and more upon the skill, judgment, and honesty of an out of state seller. However, if you buy local. We got your back.

Testimony in support of LD 369 came from individuals who made poor decisions to buy demilitarized vehicles for construction and snow operations expecting to be able to register the vehicles in Maine. Blaming municipalities for allowing initial registration on some, later revoked by the Bureau of Motor Vehicles and the refusal in other municipalities to register them at all, owners of the vehicles demanded a reversal of the inspection standards that classify the vehicles for off-road only operation, requiring them to be allowed full vehicle rights, regardless of the standards.

Similar sentiments were mirrored in LD 63, *An Act to Clarify That Certain Imported Motor Vehicles Are Not Off-road Vehicles*, sponsored by Rep. Shelley Rudnicki of Fairfield, which seeks to allow vehicles of any standard to be registered as antique autos as long as they are older than 25 years old.

The discussion on this topic is likely to continue when a public hearing is held for LD 875, *An Act to Allow Mini-trucks to Be Operated on Roads in the State*, sponsored by Sen. Benjamin Chipman of Cumberland County.

Japanese "mini trucks" were constructed to U.S. Federal inspection standards that were in place until the early

1980s when manufacturers decided it was too onerous to continue to meet the standards and instead decided to focus on domestic sales. The Japanese reverse incentive making older, less safe and more polluting vehicles too expensive to register then flooded the U.S. market with vehicles allowed to be imported... but not operate on federal roadways. Like the demilitarized stock, they are classified as off-road vehicles, and both LD 63 and LD 875 focus on reversing that for local Maine roads.

As the Department of Public Safety testified, many of these vehicles are imported and used on private properties like farms, campgrounds, theme parks, fairgrounds and other off highway locations. As registered vehicles, the operation would be allowed on public easements that exist on abandoned and discontinued roads where their classification as an off road vehicle would otherwise prohibit them. They are also less likely to survive the impact from their robustly built American cousins in a crash.

While the committee may be anxious to save the buyers from themselves by exempting the standards with single types of vehicles in mind, the language would open the roads to all types of military vehicles and imported off-roads for operation. One member even suggested removing the 10,000-pound weight limit on military vehicles proposed in LD 369. Maine property and excise taxpayers have no desire to subsidize the operation of demilitarized tanks nor off road classified vehicles on publicly maintained roads, let alone public easements that remain on discontinued and abandoned roads.

Hopefully the new committee members will recall the FMSS crash test dummy commercials from the 1980s and remember why military vehicles and mini trucks do not belong on Maine roads.



IN THE HOPPER (*cont'd*)

This bill establishes that a law enforcement officer's cardiovascular injury or disease or pulmonary disease is a rebuttable presumption of a: (1) disability under the Maine Public Employees Retirement System; and (2) workplace injury under the Maine Workers' Compensation Act of 1992.

LD 1152 – An Act to Make Long-term Disability Insurance Coverage Available to Public Employees (Sponsored by Sen. Ingwersen of York Cty.)

This bill requires the Maine Public Employees Retirement System to offer long-term disability insurance coverage and employers to provide the coverage at employer expense to members of the system who participate in the system's defined contribution plan or provide substantially equivalent coverage obtained from another source.

Taxation

LD 1153 – An Act to Allow Municipalities to Tax Personal Solar Energy Equipment Under 5 Megawatts (Sponsored by Rep. Woodsome of Waterboro)

This bill repeals the personal property tax exemption for solar energy equipment that generates heat or electricity if all of the energy is used on the site where the property is located or the energy is transmitted through the facilities of a transmission and distribution utility, and a utility customer or customers receive a utility bill credit for the energy generated by the equipment.

LD 1202 – An Act to Increase the Homestead Exemption to \$50,000 (Sponsored by Rep. Theriault of Fort Kent)

This bill increases the homestead exemption from \$25,000 to \$50,000 as of April 1, 2024, and replaces the current law requiring the state to increase reimbursement for lost property tax revenues by 3% annually, with a flat 85% reimbursement rate.

LD 1258 – An Act to Increase the Personal Property Tax Exemption for Farm Machinery (Sponsored by Rep. Terry of Gorham)

This bill increases the personal property tax exemption on farm machinery from \$10,000 to \$45,000 as of April 1, 2024, and further requires the state to reimburse municipalities for 100% of the lost property tax revenue.

Veterans & Legal Affairs

LD 1255 – An Act to Improve the Security of Voting Places (Sponsored by Rep. Arford of Brunswick)

This bill prohibits the carrying or discharging of a dangerous weapon: (1) while at the polls or on public property within 250 of a voting place, when the polling place is open; (2) at a location where absentee voting is taking place in the presence of the clerk or on public property within 250 feet of that location; or (3) at a ballot drop box or on public property within 250 of that location. The bill also exempts from the prohibition a law enforcement officer acting in their official capacity or a weapon that remains in a locked motor vehicle.