



# LEGISLATIVE BULLETIN

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## Silver Linings

The end of every session is filled with chaos, rancor, stress, and bruised egos. Under the global pandemic, some norms for the policy making process broadened participation, while others made it harder to inform the process. Those partisan chasms feel wider and more fraught now, while the firehose flow of legislative proposals often threaten to undermine the years of community development and action that have happened away from the public spotlight afforded the few acres in Augusta around the capitol dome.

Everyone is exhausted and angry.

On the flip side, one of the most diverse, and gender-balanced legislative bodies in Maine's history has exposed some of the darkest realities of our communities that deserve a strong unified reproach. Personal threats against politicians or public servants do not deserve the labels of protected speech, are not forms of legitimate criticism, and they should not be tolerated. Municipal officials know all too well the cost of this behavior, which often results in the loss of valued employees who have dedicated their lives to community service and the inability to attract new individuals unlikely to find such a hostile climate an attractive place for a career.

While MMA took no position on LD 1100, *Resolve, to Modify Security Screenings in the State House and Implement Security Screenings in the Burton M. Cross Building*, the case for providing the same level of security screenings for all legislative committee areas has been continually affirmed by targeted threats received by female members of the Legislature, including those on committees who do not sit behind the security staffed entry.

The phrase "we get the politicians we deserve" presumes that voting alone is the actionable point to change the temperature of politics. However, just as important are working conditions that attract individuals dedicated to public service, not only those with capacity, interest, and thick skin. This is the responsibility of us all and includes thinking about how we can create a climate to grow what

we desire to see reflected in our public servants.

It is for these reasons that MMA's Legislative Policy Committee made LD 1857, *An Act to Create the Public Safety Health and Wellness Reimbursement Fund to Benefit Public Safety Workers and Volunteers*, sponsored by Rep. Lynn Copeland of Saco, a platform effort along with LD 1493, *An Act to Increase Affordable Housing by Expanding Tax Increment Financing*, sponsored by Rep. Raegan LaRochelle of Augusta. Both bills are

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## GA Funding & Study on the Horizon

With unanimous votes, on Monday the members of the Health & Human Services Committee disposed of nine bills seeking to amend the statutes governing the General Assistance (GA) program. Two of the bills, LD 1664, *An Act to Increase Reimbursement Under the General Assistance Program* and LD 1732, *An Act to Expand the General Assistance Program*, were sponsored by Sen. Marianne Moore of Washington County and Rep. Michele Meyer of Eliot, respectively, on behalf of the Association's Legislative Policy Committee.

**Out Of Committee.** LD 1664 seeks to increase state reimbursement from 70% to 90% for the direct aid municipalities, ergo the property taxpayers, provided to eligible applicants. A simple back of the envelope calculation suggests that if LD 1664 had been in effect in 2023, state reimbursement would have increased from the current \$23 million to \$29 million. The printed bill also includes an emergency preamble, which if adopted in the House and Senate by a two-thirds majority vote, will become effective law upon receipt of Governor Mills' signature if she supports the measure. The committee's "ought to pass as amended," vote was necessary to include funding for the increased reimbursement.

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## Silver Linings...cont'd

mechanisms to achieve conditions to grow what municipalities desire regardless of their size or capacity. One focuses on supporting, attracting, and maintaining public servants and the other supporting, maintaining and growing housing.

This week, an amended version of LD 1857 was unanimously passed by the Health and Human Services (HHS) Committee, in a moving and unexpected way. While not as ideal as ongoing dedicated revenue, the amended version is incredibly important and starts the access to these services for all public safety professionals and first responders statewide. The amended version provides a one-time allocation of \$2 million for the purpose of being available through a grant program to be administered by the Department of

Public Safety. While officials hope the program will provide a low barrier for services that lack administrative staff, it is a step in the right direction to at least allow agencies and volunteer associations with limited capacity to provide uncovered health screenings to identify established threats to first responder health directly linked to the working conditions of public safety service.

Exposure to the worst events in our communities repeatedly impacts the health of all first responders regardless of their employment status or community's capacity. As agencies struggle to fill vacancies, and EMS services evaporate in the same rural areas where overdoses have skyrocketed, enhancing the conditions to grow, protect and maintain the health of

public safety professionals has greater public health implications beyond just those individuals. Officials hope that the unanimous support provided by the work of the HHS committee members will follow this bill through the appropriations process to the Governor's desk.

The Association and its members are deeply grateful to Rep. Copeland for her efforts at developing a sustainable healthy work environment for all public safety professionals and volunteers statewide.

Another tentative silver lining is the willingness of the Taxation Committee to continue to work through LD 1493, *An Act to Increase Affordable Housing by Expanding Tax Increment Financing*. Working with MaineHous-

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## IN THE HOPPER

### Health & Human Services

LD 1975 – An Act to Implement a Statewide Public Health Response to Substance Use and Amend the Laws Governing Scheduled Drugs (Rep. Crafts of Newcastle)

In part, this bill establishes the Substance Use, Health and Safety Fund in the Department of Health and Human Services to oversee, approve and provide grants and funding to agencies, organizations and service providers, to increase voluntary access to community care for persons who need services related to substance use. By June 30, 2024, and annually thereafter, the Legislature must appropriate to the fund an amount sufficient to fully fund the services as set forth in the bill.

### Joint Select Committee on Housing

LD 772 – An Act to Establish a Process to Vest Rights for Land Use Permit Applicants (Sponsored by Sen. Pouliot of Kennebec Cty.)

This bill gives an applicant for a land use permit the right to have a municipality or the Maine Land Use Planning Commission review the application solely based on any orders, regulations, ordinances, rules, expiration dates, fees or other requirements in effect at the time the original application for the land use permit is filed for review.

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

LD 853 – RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Right to Housing (Sponsored by Rep. Collings of Portland)

This resolution proposes to amend the Constitution of Maine to declare that all individuals have a natural, inherent, and unalienable right to housing.

LD 1257 – An Act to Increase Housing Capacity and Protect the Municipal Tax Base and Working Lands (Sponsored by Rep. Crafts of Newcastle)

This bill adds to the list of subdivision review exceptions projects that yield three but no more than 18 dwelling units on a single or parcel of land located in a designated growth area within a municipality, provided the project is subject to municipal site plan review. The bill also defines "administrative reviewing

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## Silver Linings...cont'd

ing, Rep. LaRochelle and municipal and regional economic development professionals, the amended version of the bill enhances the ability for communities to protect their existing multi-unit dwellings, utilizes retained revenue from credit enhancement agreements to leverage bonding funds, and advances affordable housing projects more rapidly for anywhere in a municipality. Additionally, the changes would allow the legislative body of a municipality to designate a "housing zone" overlay originally called "Pine Tree Housing Zone" to incentivize keeping existing multi-unit properties affordable or provide a tool that could help transition large homes into multi-unit dwellings allowing seniors to age in place, while achieving housing goals.

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## HEARING SCHEDULE

— For the week of May 29, 2023 —

**MONDAY, MAY 29 – HOLIDAY**

**TUESDAY, MAY 30**

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

LD 1937 – An Act to Remove the Confidentiality of the Transportation of Hazardous Materials by Railroad Companies

*Note: As of now, the legislative presiding officers have waived the requirement that bills be advertised for public hearing two weeks in advance; therefore, you should check your newspapers for Legal Notices as there may be changes in the hearing schedule. It is not uncommon at this time of the session to have a bill printed one day and a public hearing within a few days. Weekly schedules for hearings and work sessions can be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>.*

The bill has been tabled after a second work session to get additional clarity, but it seems as though the committee is interested and will likely have additional meetings after the holiday. All committee work was intended to be finished by this Friday, but several bills were tabled while others continued to be debated and voted out by Taxation on Thursday. Of interest, LD 1714 proposing to carve out 12% of adult use cannabis revenue to support funding for recovery community centers received the "ought to pass as amended" nod. Since some elements of the proposed amendment remain unclear, municipal officials are urged to stay tuned for updates.

Time may be dwindling for legislative proposals but come what may, municipal leaders are incredibly appreciative of the work of Rep. LaRochelle and her in depth knowledge of TIF tools for communities, as well as all legislators who have supported MMA's 2023-2024 legislative platform. In addition to recognizing Reps. LaRochelle and Copeland, members of the Legislative Policy Committee, municipal leaders and MMA's advocacy staff take this opportunity to thank all of our bill sponsors, listed in the sidebar and all stalwart cosponsors who honor their municipal government partners with their work.

In the coming weeks, the hard work on the floor of House and Senate will begin in earnest as will the incredibly powerful Appropriations process. We hope the silver linings will turn into the threads to sew up the chasms between the divides, both intentionally and thoughtfully.

The Association and its members are grateful for the work and support to advance MMA's platform initiatives. Along with the individuals listed below, we are also grateful to all the co-sponsors of these efforts and those who continue to honor the work of their municipal government partners. Rep. Amy Arata of New Gloucester (LD 1022); Sen. Donna Bailey of Saco (LD 444); Rep. Lynn Copeland of Saco (LD 1857); Sen. Nicole Grohoski of Hancock County (LD 1223 and LD 1456); Rep. Allison Hepler of Woolwich (LD 665); Rep. Raegan LaRochelle (LD 1473); Rep. Laurel Libby of Auburn (LD 1859); Rep. Ann Matlack of St. George (LD 1685); Rep. Michele Meyer of Eliot (LD 1732); Sen. Marianne Moore of Washington County (LD 1664); Rep. Sean Paulhus of Bath (LD 88); and Rep. Maureen Terry of Gorham (LD 1650).

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## Working Out Pole Attachment Policy, Amicably

As things heat up under the dome, public hearings and work sessions are being held at lightning speed. At a public hearing held on May 5, the Energy, Utilities & Technology committee listened to testimony on one of MMA's platform bills LD 1223, *An Act to Clarify Cost Allocations and Insurance in the Joint Use of Public Utility Equipment*, sponsored by Sen. Nicole Grohoski of Hancock County.

As communities grapple with the issue of how to or if to create a broadband network for their residents, this bill seeks to amend current pole attachment agreements so that municipalities are not waiving their right to immunity under the Maine Tort Claims Act and would apply that change retroactively. Currently, the high cost of liability insurance is a barrier for some projects moving forward and with one pole owner requiring a \$10 million insurance policy to attach to their polls that occupy the publicly owned right of way, this could significantly affect a municipalities ability to fund the project.

As expected, Central Maine Power (CMP) rose in opposition to the bill but is open to working out a compromise that could work for all involved. From their view, any attachment to the exist-

ing infrastructure could fail and their preference would be to spread the risk among all the entities attached to the pole. They further mentioned that it was their opinion that it was better to make public policy to treat all entities equally instead of simply going after the corporation with the deepest pockets.

The Maine Connectivity Authority (MCA) testified neither for nor against LD 1223 and mentioned to the committee that they have had discussions with MMA about a pooled insurance option for our members. Upon investigation of this option, MMA found that they are not able to provide such an insurance option while there is a waiver of immunity in the pole attachment agreements.

Jumping to the work session held on May 17, Sen. Grohoski presented an amendment that would not require municipalities to waive immunity and that would limit an insurance policy to a \$5 million limit. Committee members engaged in much discussion around if municipal broadband projects should be treated the same as for-profit businesses such as Spectrum, or if these projects are more aligned with providing services for the public good.

The committee ultimately felt there was a bit more work to do, tabled the

bill, and asked MCA, CMP, and MMA to try and work out a solution. MMA was further asked to find out if there was concern for lawsuits if this measure was applied retroactively. While the short answer to the lawsuit question is yes, discussion post work session resulted in CMP agreeing to add a clause to the pole attachment agreements that would specifically state that the municipality is not waiving their right to immunity under the Maine Torts Claim Act and also agreed to amend their current contracts to reflect these changes.

This information was brought back to the committee at a second work session on May 24. Although committee members felt much progress was made and were appreciative of the collaborative effort, the bill sponsor wanted a little more time for the bill and moved to table LD 1223 for a second time. It was anticipated that the bill would be taken up on May 25, however, given the number of bills to report out of committee, it was determined that this version of the bill likely would not be taken up and would have to wait until next week.

Things look promising for this platform bill, but stay tuned for next week's schedules as there is still much work to be done.

### IN THE HOPPER (cont'd)

authority," as a municipal employee or other designee of a municipality, and "municipal site plan review," which must include criteria regarding storm water management, sewage disposal, water supply and vehicular access. Finally, the bill requires the reviewing authority, when reviewing an application for subdivision approval, to determine that the proposed subdivision is not located in an area identified and designated in the municipality's comprehensive plan as a rural area, unless the area is a designated growth area or an area for which the municipality has adopted a plan governing the approval of subdivisions.

LD 1672—An Act to Establish an Affordable Housing Permitting Process (Sponsored by Rep. Gere of Kennebunkport)

This bill creates the seven-member Affordable Housing Development Review Board, which includes a representative of municipal government, tasked with reviewing proposed affordable and workforce housing developments, effectively circumventing the local processes. In the review process, the board is authorized to preempt any municipal ordinances in the process of determining whether to grant or deny the application for a permit. The bill also creates the process by which a housing development may apply for a permit, in lieu of applying for a local permit, provided the development is in a designated growth area or area served by public water or sewer and 50% of the building's square footage is for affordable or workforce housing. The bill also provides that the development is authorized in an area where a municipal ordinance is not consistent with a

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## GA Funding & Study on the Horizon ...cont'd

**Carryovers.** The committee also voted to carryover into the second session LD 1732, with a strong expression of commitment to convene with the interested parties throughout the summer and fall to fully flesh out and recommend program improvements. As described in the May 12 edition of the Legislative Bulletin, LD 1732 proposes more substantive changes to the GA law, including mandatory administrator training, increased financial support for the municipal costs and services necessary to implement the program, and more consistent guid-

ance from the Department of Health & Human Services.

Related proposals found in LD 1426, *An Act to Secure Housing for the Most Vulnerable Maine Residents by Amending the Laws Governing Municipal General Assistance*, sponsored by Kristi Mathieson of Kittery and LD 1675, *An Act to Amend the Laws Governing the General Assistance Program Regarding Eligibility, Housing Assistance and State Reimbursement and to Establish a Working Group*, sponsored by Rep. Michael Brennan of Portland, will also be subject to review

by the interim working group. Unique to these bills are recommendations to amend the formula used to calculate the maximum level of assistance that is provided, as well as to increase from one month up to a full year the aid granted to an individual that at times is necessary to secure permanent housing.

**ONTP.** Finally, the committee made quick work of the work session by also voting “ought not to pass” on five bills seeking to amend the GA benefits through the establishment of residency requirements and time limits.

## IN THE HOPPER (cont'd)

comprehensive plan and provides that inconsistent ordinances including provisions that require a minimum lot size of more than 5,000 square feet, density restriction, more than two parking spaces per three dwelling units, more than 50 feet of street frontage, and more than 10 feet of front setback, to name a few. The bill also prescribes the procedures the review board must employ, which requires that notice of a hearing be provided to the applicant and the impacted local board. The bill extends appeal rights to the applicant and provides that municipal fees may not be assessed except to connect to utilities and apply for building permits. Finally, the application fee for the special permitting process is \$5,000 per application.

LD 1134 – An Act to Improve Housing Affordability by Amending the Definition of “Subdivision” Under the Site Location of Development Laws (Sponsored by Rep. Boyle of Gorham)

This bill amends the site location of development laws to provide that the term “subdivision” includes the division of a parcel of land into 20 or more lots to be offered for sale or lease to the general public within any three-year period if the aggregate land area includes more than 50 acres and when all the lots are for single-family, detached, residential housing, common areas or open space.

### Labor & Housing

LD 513 – An Act Regarding Overtime Protections for Certain Maine Workers (Sponsored by Sen. Tipping of Penobscot Cty.)

This bill annually raises the minimum salary used to determine whether an employee who works in an executive, administrative or professional is ineligible for overtime pay, which is currently

3,000 times the minimum hourly wages. As proposed, the minimum incrementally increases from 3,500 times the minimum wage in 2024 to 4,500 times the minimum wage in 2026. The bill also exempts nonprofit corporations that meet compensatory time agreements from the proposed provisions and directs the Department of Labor to adopt routine technical rules, including rules regarding compensatory time for employees of nonprofit corporations.

### Taxation

LD 996 – An Act to Allow a Municipality to Establish a Local Option Sales Tax (Sponsored by Rep. Gramlich of Old Orchard Beach)

This bill allows municipalities to impose a local tax on the sale of any good or service subjected to the state sales tax provided the authority is approved by vote of the legislative body or municipal referendum. The related article or question must describe what the revenue will be used for and can be applied on a seasonal or year-round basis.

LD 1298 – An Act to Allow a Local Option Sales Tax on Short-term Lodging to Fund Affordable Housing (Sponsored by Rep. Skold of Portland)

This bill allows a municipality to impose a local option sales tax of 1% on short-term lodging that is subject to the state sales and use tax if approved by referendum of the voters in that municipality. The revenue from the sales tax must be distributed to the municipality imposing the tax and used for municipal programs that support affordable housing development in that municipality, including rental assistance for lower income households or moderate-income households.



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