LEGISLATIVE BULLETIN

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Nice work; now start all over.

The alternate universe metaphor has been overused to describe this Legislature but remains fitting. In the same committee room over two different committees this week, legislators rolled back on well-established norms such as septic requirements, shoreland zoning violations and respect for the constitutional provisions of home rule authority. So odd were the shifts to norms expressed in the same committee room that it might be beneficial for someone to check the air quality.

On Monday, the Inland Fisheries and Wildlife Committee held a work session on LD 1763, *An Act to Regulate Nonwater-dependent Floating Structures on Maine's Waters,* sponsored by Rep. Hepler (Woolwich), which cumulated the recommendations from the extensive work of the Maine Municipal Association, Maine Harbor Masters Association, Department of Marine Resources, Department of Environmental Protection, the Submerged Lands Program under the Department of Agriculture Conservation and Forestry, and the Inland Fisheries and Wildlife's enforcement and watercraft regulatory divisions to regulate non-water dependent floating structures. The proposed changes would define the difference between a true boat and a floating structure, provide a path to compliance through implementation of adequate standards and slowly fade out non-vessels while respecting traditional Maine boatbuilding.

Submerged land is leased regularly for set types of activity, like a restaurant over the water, certain harvesting gear, and generally any structure greater than 500 square feet requiring attachment to the bottom of the waterbody for which a user must pay a licensing fee and commit to appropriate safety guidelines. This is in recognition that the waters belong to everyone, and the exclusive use of public property requires a return to the public and the obligation to meet certain requirements of stewardship. Docks, swim floats, and other lake toys also have rules about placement, position, and upland ownership in specific areas.

Register a floating gazebo as a boat, drop anchor, and camp 300 feet away from someone's lake front house, perhaps even rent it out, and there is limited municipal authority to address the fallout. (Yes, this has been done.) Municipalities cannot regulate registered boats. Even ice fishing shacks must advertise their ownership and are subject to upland ownership protections even though their use is for a public trust right.

Getting two arms of state government to cooperate is tough, finding unison on an approach amongst four is unheard of, yet this is what occurred over the past four years. Even still, some amended language was necessary to address concerns of municipalities, business owners and some department activities to make sure permitted and existing businesses were not unwittingly swept in through the revisor's process. All were addressed and even existing shoreland zone violators were provided with a route to appropriate licensing and grandfathering to allow a gradual phase out and paths to federal vessel designation where appropriate, or proof of wastewater compliance and upland ownership.

Still the committee remained concerned that non-profit violators would somehow lose revenue due to the inability to comply, and compliance with vessel standards seemed a bridge too far with one

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Oh, the Irony

In response to the U.S. Supreme Court's decision regarding the censure of a member of the Maine House, a legislator expressed disappointment by commenting that it was "unfortunate that the Supreme Court injects itself into the Legislature's decision-making area."

As described in the "Nice Work" article, soon after, however, members of the Housing and Economic Development Committee gathered to discuss how best to insert the will of the Maine State Legislature into local government decisions by requiring municipalities to once again amend the housing ordinances that were recently revised, by mandate, in 2022. Additionally, while the committee and sponsor of LD 1829, *An Act to Build Housing for Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Municipal Land Use Decisions*, agree that there are costs associated with amending ordinances, the general sentiment among proponents is that the expenses will be minimal. Why? Because those ordinances were just recently amended according to a legislative mandate.

This argument is troubling because it suggests the fiscal note for LD 1829, appropriating 90% of the funding necessary to comply with the mandate, may fall short of actual expenditures. Municipal leaders have been here before, as the $10,000 provided to municipalities to amend ordinances as required by the enactment of LD 2003, fell drastically short of the $30,000 the property taxpayers—on average—spent to comply with the mandate.

The debate regarding "adequate" levels of municipal reimbursement continues even as members in other committees suggest that municipalities should be financially punished for out-of-control spending.

In the immortal words of Alanis Morissette…"isn't it ironic?"

member remarking that floating camps (not legitimate houseboats or converted vessels that were formerly a boat) should be allowed for all upland owners with no restrictions.

We recognize that buildings should be well set back from the water and not expanded into the shoreland due to their well-established harm to the adjacent waterbody, but it should be ok as long as they can float? Ed Muskie is rolling over.

The bill was tabled until next Wednesday, with what can only be assumed to provide a crash course on submerged lands leasing, water quality protection, and the contribution of floating excrement to inland algae blooms regardless of commercial status.

On Tuesday, the Housing and Economic Development Committee ultimately tabled continued discussion until Thursday on LD 1829, *An Act to Build Housing for Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Municipal Land Use Decisions*, sponsored by Speaker Fecteau (Biddeford). According to the sponsor, a stakeholder group worked on several elements of the original bill, which he also suggested should be retitled because the elements of a state appeals board were removed.

Remarkably the stakeholder group, which did not include municipal officials or firefighters, informed the Speaker's amendment by increasing the height limits on buildings where affordable housing is allowed, to an extra 14 feet above the current municipal limit, preempting municipal authority to make owner occupancy a requirement for accessory dwelling allowances to appease lending institutions, limiting parking restrictions and allowing four units wherever a single family dwelling once existed, should it be removed.

The proposed set of changes will require municipalities to amend multiple sections of zoning ordinances, lot size minimums or general land use ordinances just recently adopted, and incur expenses including fees for legal review, public hearings, warrant drafting and town meetings, as well as the cost of a ladder firetruck potentially necessary to reach additional floors not currently allowed by the municipality but preempted by the bill. Let's not forget, also the costs of requiring planning board members to participate in a training session, currently voluntary.

Much of the discussion around the bill was centered on attempting to diminish the impact of the fiscal note and resulting costs to be incurred by municipalities. However, the constitution is clear; the bill to the legislature is 90% of the actual costs, no ifs, ands, or buts about it. For purposes of informing the fiscal note, a new ladder firetruck runs about $1.3 million.

The bill has again been tabled and is likely to show up in a future work session though time is dwindling. What has always delivered real results is leading with community. Residents speak through their votes and when leaders listen, progress happens fast. This bill, like so many others this year, isn't about facts or outcomes; it's a value judgment on the work communities have already done, shaped directly by the will of their voters.

While legislators deliver lofty speeches about how forced zoning changes will fix the housing crisis, thousands of homes are already being built by and for the very residents they dismiss. Maybe it's time we admit the obvious: progress doesn't come from catering to the same financial interests that caused the crisis. It comes from trusting the people who live in these communities to shape their own future.

GA (GA), Ooh La La

This legislative session, fifteen specific requests were submitted for legislation proposing to amend the statutes surrounding General Assistance (GA) with countless more aimed at changing the way other social programs are administered in Maine.

While MMA's Legislative Policy Committee members supported GA bills that increased reimbursements and assistance to municipalities, it is worth noting that the Department of Health and Human Services (DHHS) testified in opposition to all GA bills except for LD 1081 which clarified access to GA offices and was discussed in the April 18, 2025, edition of the *Legislative Bulletin*.

Last Thursday the Health and Human Services (HHS) Committee held work sessions for five GA bills, feeding the chambers with three divided reports on bills that will now be decided by the full legislature.

One bill, LD 1066, *An Act Regarding Limits on Municipal General Assistance Programs*, sponsored by Sen. Bernard (Aroostook County), received a unanimous committee report of "ought not to pass." The bill language mirrored the housing maximum assistance limitations that were presented in the governor's January supplemental budget (LD 209), changed the municipal work program from voluntary to required, and instituted an increase in the period of ineligibility should an applicant voluntarily leave employment or be discharged for misconduct.

In addition, LD 637, *Resolve, Directing the Department of Health and Human Services to Evaluate the Municipal General Assistance Program Database*, sponsored by Rep. Henderson (Rumford), was also voted out "ought not to pass." The committee chose to incorporate language into LD 978, discussed later in this article, to repeal part of the statute that was enacted last session in PL 2023, c. 575, requiring the department

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to provide a database to "properly determine an applicant's eligibility." DHHS reported that after receiving responses to the RFP for a database, the projected costs of such a program could not be absorbed and with the continued concerns about overall funding for the program, the database is an unrealistic expense at this time. The database request was part of MMA's platform GA bill during the 131st legislative session.

The other three bills were voted out with divided reports, along party lines.

LD 1017, *An Act to Include Food Provided or Served at Emergency Shelters in General Assistance Reimbursement*, sponsored by Sen. Talbot Ross (Cumberland County), would do exactly as the title suggests and expand the definition of direct costs eligible for 70% state reimbursement to include shelter foods.

Likewise, the intent of LD 1029, *An Act to Ensure General Assistance for Housing Does Not Reduce Assistance for Other Basic Necessities and to Increase Presumptive Eligibility and State Reimbursement for General Assistance*, also sponsored by Sen. Talbot Ross, is easily interpreted. In addition to removing housing costs from the total maximum assistance allowable to an applicant, the eligibility presumption for emergency shelter housing would increase from 30 to 180 days and reimbursements would increase to 100% for emergency shelters' direct costs and to 90% for all other direct costs. While the reimbursement increases certainly would assist municipalities facing increased GA expenses, the non-reimbursement portions of the bill would amend statute in a way that simply shifts costs by increasing aid for only a specific category of eligible applicants and seemingly makes the current procedure of setting maximum levels of assistance obsolete.

Interestingly, the work session for LD 978, *An Act to Increase General Assistance Reimbursement for Municipalities and Indian Tribes*, sponsored by Rep. Zager (Portland), resulted in two "ought to pass as amended" reports. As initially drafted, the bill would have increased the reimbursement level, over time, for the six municipalities and/or tribes receiving the most GA reimbursement from 70% to 90% by July 1, 2030, and increased all other municipalities' reimbursements to 90% beginning July 1, 2026.

In recognition of the "tough times and hard decisions" mantra of the department, Rep. Zager offered an amendment that would instead increase the reimbursement rate for all municipalities to 75%, effective July 1, 2025, and to 80% beginning July 1, 2027. The amendment would also provide a limitation on housing assistance to 12 months within a 36-month period, exempting temporary and shelter housing, which is the same language that was volleyed back and forth during the failed biennial budget discussions. In addition, the database language from the work session on LD 637, mentioned above, was included in the amendment.

Those amendments were agreed upon unanimously by the committee and represent the first of the two "ought to pass as amended" reports.

The second report includes all the same language as the first but goes further by expanding the current limitation of exceeding the maximum levels of assistance for temporary housing in a hotel or motel and makes the 30-days in a 12-month period limitation applicable to all housing.

On Monday, HHS held a public hearing for one final GA bill, again sponsored by Sen. Talbot Ross. LD 1959, *An Act to Prohibit the Department of Health and Human Services from Reducing General Assistance Reimbursement Maximums for Payment of Costs of Providing Emergency Shelter*, brings back an issue that was first discussed in a *Bulletin* article published on January 24, 2025. While this bill is certainly aimed at solving a problem that is primarily impacting the City of Portland, so much so that litigation is pending, it's about more than just one municipality losing reimbursement funds. This bill attempts to get to the root of the rulemaking process, and whether the department overstepped its authority in the proposed, and now adopted, amendments to Rule 26.

The question is whether the adoption of an amendment that limits services and results in a fiscal impact, no matter the topic or municipality, constitutes a routine technical rule? Despite the many comments submitted objecting to this authority without proper legislative oversight and demonstrating that these changes did in fact constitute a major substantive rule, Rule 26 was adopted on April 1, 2025. Public comments addressing this disparity between routine technical and major substantive rule language were acknowledged by the department with the statement, "there was no change as a result of this comment." On Wednesday, the HHS committee voted to request carryover status for LD 1959, presumably due in part to the pending litigation surrounding this issue, but also hopefully to give this action by the department the attention and deliberation it deserves.

It's up to the legislature now to decide the fate of this current round of bills attempting to address the struggling GA program. Whether or not the fate of the relationship between GA administrators and the department becomes more amendable or remains a bad romance, is yet to be seen.

We May Not Agree

...but good communication can result in great things.

There are times when *Legislative Bulletin* articles poke fun at the legislative processes, call out questionable legislative proposals or comments, or recognize a legislator's approach on a policy of municipal interest. While being cheeky can be cathartic, it is especially uplifting when a policy proposal leads to something great.

One such proposal, LD 1090, *Resolve, to Form a Working Group to Address Vacancies in Municipal Government Management Positions*, sponsored by Rep. Rollins (Augusta), aimed to create a working group to study municipal workforce recruitment and retention challenges. Having served as mayor, Rep. Rollins submitted the bill with the intention of helping municipalities with something that he has seen as a challenge for several years, and one that simply continues to grow.

At the public hearing held on March 31, Rep. Rollins was dismayed to hear the Maine Municipal Association (MMA) was opposed to his bill and reached out to staff to discuss options that would work for municipalities. It was determined through these chats

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We May Not Agree .....cont'd

that the missing piece was an educational program designed to provide individuals with the skills and knowledge to manage municipal operations. At one time Maine did have an educational program for that purpose, but it has since been eliminated, leaving only the public administration program as an alternative.

Through discussions among staff at MMA, Department of Economic & Community Development, and the University of Maine at Augusta (UMA), MMA learned of an opportunity under development and actively being weaved through the university system's internal processes for approval. This program, which has since gained internal support but still needs university board of trustee approval before the program can begin accepting students, is a college level program that would be a little different than the public administration program currently offered.

The new "applied" public administration degree would require students to earn 90 credits to complete the program, as opposed to the regular 120 credit requirement, and would hit the mark perfectly in terms of education while also allowing for work experience as a prerequisite. With a public administration program already in place, the new program is not designed for "fresh out of high school" students, but more for someone already in the workforce looking for a pathway to a different career or to further their current one.

Although MMA was opposed to the original bill, they were not opposed to the intent of the bill and appreciated that Rep. Rollins brought awareness to an issue that all employment sectors are facing. MMA was happy to work with Rep. Rollins and other stakeholders to bring to light and lend support for an alternative solution that was already in play, which otherwise might quietly go unnoticed like most good work of municipal government.

Due to the outcome of stakeholder discussions, it was ultimately deemed that LD 1090 was not necessary to move forward and was voted "ought not to pass" unanimously. While there is still a final hoop to jump through before the program can start accepting students, our fingers remain crossed for the implementation of this much needed program.

There are no public hearings to advertise for next week, as the session draws to a close and bills are being either reported out of committee or carried over to the next session. Likewise, there are no new bills to place in the Hopper.