

LEGISLATIVE BULLETIN



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Public Safety Policy Update

The work of the Criminal Justice and Public Safety Committee this session could be a fruitful study for human behavior and policy adoption via Zoom deliberation. While the use of technology has allowed unprecedented participation in governance matters from a wide variety of stakeholders, collegial consensus building and bipartisan policy making at the committee level has certainly suffered.

Public hearings and work sessions on bills that have significant municipal public safety impacts are often voted out of committee along party lines with important issues viewed as zero-sum games instead of subject matter expert informed change. What follows are updates on five public safety related bills; three of which have been worked by the committee and two slated for work sessions.

Reclassifying Offenses. LD 1604, *An Act To Reclassify Certain Offenses under the Inland Fisheries and Wildlife Laws and Motor Vehicle Laws and Increase the Efficiency of the Criminal Justice System*, sponsored by Rep. Charlotte Warren of Hallowell, was voted out of committee “ought to pass as amended,” along party lines. This bill seeks to reclassify certain misdemeanor offenses into civil violations which will not be punishable by incarceration. The goal for the sponsor, prosecutors and the Attorney General, is to free up space in the court for matters considered as more important to public safety.

After working with the Department of Public Safety to address several concerns around motor vehicle operation in the original draft, the amended version

focuses on key hunting and fishing violations and several administrative offenses that lead to license suspensions. These offenses include failing to register a motor vehicle or operating after an administrative suspension for failing to pay a fine for a traffic violation or for failing to pay child support. The bill allows the court to define the level of the fine for the new civil violations.

Aimed at clearing a backlog in the court system for minor violations, the bill’s final form keeps many low level hunting and fishing offenses from requiring a hearing. However, the traffic laws remaining may disincentivize drivers from registering their vehicles unless the current fine amounts for the violations are significantly increased by the court.

Under current law, an individual who

operates a motor vehicle with an expired registration for more than 150 days or with plates improperly attached to another vehicle could be charged with a crime. In practice, individuals with an expired registration are issued a summons that is dismissed once the registration issue has been corrected. The average fine is \$100. When a vehicle is registered eight months past expiration, the registration fee to the municipalities is one-half the annually calculated rate.

Without a significant increase in the financial penalty, the result may produce a risk benefit analysis tilted in favor of individuals who own more expensive vehicles. Waiting to register an \$85,000 vehicle until after eight months into the registration year could cost an individual \$100 for an average fine for a chance to

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Affordable Housing Bill Draws Large Crowd

Over the course of eight hours, the members of the Labor and Housing Committee accepted public testimony on LD 2003, *An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions*, sponsored by Speaker Ryan Fecteau of Biddeford.

As described in the March 4 Legislative Bulletin, the bill implements the recommendations of the Housing Commission established last year via enactment of LD 609, *Resolve, To Establish a Commission To Increase Housing Opportunities in*

Maine by Studying Zoning and Land Use Restrictions, which seeks to increase the state’s inventory of affordable, workforce and senior housing; or as one member of the committee describes it, normal people housing.

While testimony was offered in support of, in opposition to, and neither for nor against the bill, with limited exceptions, the testimony presented was generally supportive of the initiative with participants offering suggestions for how to better frame the policy. The goal among the interested parties is to ensure the initiative can be implemented locally,

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Public Safety Policy Update cont'd

save \$900 in registration fees. Conversely, for Mainers living at the margins, driving older vehicles, and living in a state with virtually no public transportation alternatives, the \$100 fine threat is likely to deter an individual who cannot afford the \$65 registration.

Secondary Offenses. Another bill which received a public hearing on Thursday, March 3 seeks to further incentivize everyone to avoid their obligations to help fund the care and maintenance of roads. LD 1479, *An Act To Make Certain Traffic Infractions Secondary Offenses*, sponsored by Rep. Victoria Morales of South Portland makes enforcing a registration violation nearly impossible, while increasing potential fines on all individuals to prevent the new incentivized violations.

As amended by the sponsor, the bill makes it impossible for law enforcement to enforce a violation for a variety of common traffic offenses unless there is another primary reason to stop the vehicle. The offenses that would no longer be “primary” reasons to summons alone include: operating with an expired registration for more than 150

days, illegally or improperly attaching plates, failing to secure a child or other occupants with seatbelts, operating with an expired inspection certificate unless a defect was visible by police, operating with an obstructed view by an object hanging from a rearview mirror, loud exhaust, covering or obstructing a license plate, driving in the center turning lane, or having plate lights out.

The sponsor pointed to efforts in Philadelphia to stop police from using traffic stops to target individuals of color. Unlike LD 1479, Philadelphia’s initiative was established by the city council in consultation with police to emphasize community priorities for a city plagued with violent crime. The city additionally created a 400-employee civilian workforce, much like parking attendants, to continue to enforce the violations and allow the 6,000 officers in the city to focus on preventing violent crime.

A variety of opposition came from the medical and law enforcement communities highlighting the devastating impact of crashes involving individuals not wearing seatbelts, fiscal impacts to the state, loss of federal funds that provide public education and child safety seats for families needing assistance, loss of local and state revenue to fund roads and highways, and the reduced ability to remove impaired drivers from the road without additional enforceable violations like speed involved.

From MMA’s point of view, the bill rolls over community desire to address quality of life and safety issues frequently reported by residents to their police, while increasing the need for officers to write two tickets for stops that would otherwise be a warning to encourage voluntary compliance for some violations.

The majority of stops for registration violations are used as reminders and educational opportunities, rather than to issue summons. If enacted, communities will likely direct their officers to seek and issue tickets for all available offenses to address the motor vehicle excise tax evad-

ing behaviors that will be encouraged by the bill, similar to the incentive provided in the above-described LD 1604.

The committee held a work session on the bill Monday with clear misunderstandings of how these violations are used in practice and moved “ought to pass as amended” after removing seatbelt violations from the list of secondary offenses with a 5-5 vote of those members present, again along party lines.

Sustainable Ambulance Services. Introduced by Sen. Chip Curry, of Waldo County, LD 1859, *An Act To Build More Sustainable Ambulance Services in Communities*, creates a community level grant program to allow groups of municipalities to undertake a regional evaluation of Emergency Medical Services (EMS) and to support a facilitated, well informed, community led process to address fiscal stability, staffing, service level and health needs, in balance with resident expectation of EMS from a regional level.

As envisioned by the sponsor, this community self-determination approach leads to greater taxpayer review and aids residents in understanding the cost drivers and challenges associated with providing these services. The process facilitates dialogue and engagement between, those that pay, and those that provide, to address shortfalls before an emergency need is unmet. For many residents, the only time availability of service is likely to touch their lives is at the point of need. Community led and facilitated conversations allow residents not only to have their expectations for service provision expressed before an emergency occurs, but also allows them to better advocate for investment in a regional response system designed appropriately to achieve those goals.

An amended version of LD 1859 was supported by the committee.

Supporting EMS. LD 1988, *An Act To Establish That the Provision of Emergency Medical Services by an Ambulance Service Is an Essential Service and To Establish the Blue Ribbon Commission To*

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LEGISLATIVE BULLETIN

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Layout: Sue Bourdon, Advocacy & Communications.

HEARING SCHEDULE

For the week of March 14, 2022

Study Emergency Medical Services in the State, sponsored by Rep. Rachel Talbot Ross of Portland, was initially concerning as language indicated that EMS services would be deemed “essential services” which could mean mandatory municipal provision depending on the definition established in statute.

At the public hearing, the sponsor clarified that was not the intent of the bill. Instead, the purpose is to acknowledge the importance such workers have within Maine’s public safety services and a desire to create a commission that would explore all factors of the challenges facing ambulance services state-wide, including insurance reimbursements and training.

During its neither for nor against testimony, MMA welcomed the sponsor’s clarity on the language intent and emphasized the challenges municipalities face with retaining and attracting EMS workers. Additionally, MMA asked for municipal representation on the newly created Blue Ribbon Commission to study services in the state emphasizing that many of these services are provided in tandem with fire services in several municipalities, while others are private service providers represented in the bill.

The sponsor agreed and will add municipal services representation to the study in an amendment the committee will review today.

Civil Rights Officers. LD 1999, *An Act To Require Civil Rights Officers at Law Enforcement Agencies*, also sponsored by Rep. Talbot Ross, was constructed out of MMA’s attempt to rectify issues around LD 132, *An Act To Implement the Attorney General’s Recommendations on Data Collection in Order To Eliminate Profiling in Maine*, enacted last year, which placed a data collection mandate on law enforcement, funded largely by municipalities with no direct path forward.

To move the initiative forward last session, the Legislature significantly reduced the appropriation for the software and staff necessary to create and implement the state-level centralized data collec-

MONDAY, MARCH 14

**Environment & Natural Resources
Room 216, Cross Building, 9:00 a.m.
Tel: 287-4149**

LD 2020 – An Act To Implement Recommendations Regarding the Regulation of Firefighting or Fire-suppressing Foams to Which Perfluoroalkyl and Polyfluoroalkyl Substances Have Been Intentional Added.

**Inland Fisheries & Wildlife
Room 206, Cross Building, 11:30 a.m.
Tel: 287-1338**

LD 2014 – An Act Related to Sunday Hunting.

**State & Local Government
Room 214, Cross Building, 9:00 a.m.
Tel: 287-1330**

LD 2011 – An Act To Allow the Annexation of Certain Lands by Columbia Falls.

TUESDAY, MARCH 15

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

LD 2013 – An Act Relating to Perfluoroalkyl and Polyfluoroalkyl Substances Contamination in the State.

LD 2019 – An Act to Require the Registration of Adjuvants in the State and To Regulate the Distribution of Pesticides with Perfluoroalkyl and Polyfluoroalkyl Substances.

**Taxation
Room 127, State House, 10:00 a.m.
Tel: 287-1552**

LD 2010 – An Act to Help Maine Residents with High Electricity Costs.

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. Weekly schedules for hearings and work sessions can be found on the Legislature’s website at: <http://legislature.maine.gov/calendar/#Weekly/>.

tion system envisioned in LD 132. The system designed by the Department of Public Safety, called E-citation, would be redesigned to include a module dubbed E-warning, mirroring similar systems like the Maine Crash Reporting System, providing access for all law enforcement officers.

Without state funding, the data goals are unachievable in a meaningful way, but the obligation remains.

LD 1999 seeks to not only add back the funding necessary to achieve the centralized system but also makes what is already operational for law enforcement, explicit in the civil rights statute. To that end, this bill adds an explicit prohibition for racial profiling in the civil rights statute and requires that agencies publicize who their civil rights officer is on their website to

make it clear how to connect with them.

The Maine Criminal Justice Academy already requires each agency to designate a civil rights officer and provides training for that individual in conjunction with the Attorney General’s Office. Although these requirements are found in existing rules, which carry the weight of law for law enforcement, placing the requirement in statute reassures the public that these measures are in place and reaffirms that racial profiling is prohibited both in federal and Maine law.

Both LD 1988 and LD 1999 will receive work sessions as this edition goes to print, along with legislation regarding the issuance of concealed handgun permits and funding for county jail operations.

Stay tuned for next week’s bulletin for updates on these bills.

Affordable Housing Bill Draws Large Crowd cont'd

without placing additional strains on municipal resources and infrastructure, while increasing access to affordable rental units and homes.

While the solutions offered by the parties varied, there was universal support for the initiative in the bill directing the Department of Economic and Community Development to provide technical assistance to municipalities to implement the varied recommendations.

In addition, LD 2003 implements an incentive program allowing communities to qualify for a \$75,000 grant with payments issued over a three-year period provided certain outcomes are met. As proposed, in the first year of implementation a community is required to convene a working group to review how the municipality's zoning and land use ordinances impact the availability of housing; in the second year adopt or amend ordinances to promote housing development; and in the final year of the program, document how

changes to ordinances have impacted the construction of housing in the community.

While municipal officials support the grant and incentive program proposals, when reviewing the bill in its entirety, the members of MMA's Legislative Policy Committee find that the impacts on municipal planning efforts and the potential for unintended consequences outweigh those benefits. The municipal officials serving on the policy committee are concerned that implementing a one-size-fits-all approach without requiring a study of the impacts on municipal infrastructure, natural resources, or individuals, will erode the ability of local leaders and residents to make informed decisions.

The preference among local leaders is to create the necessary state-funded technical assistance programs first, and then require implementation of the approaches that best fit the community, with the end goal of creating more housing in

all municipalities.

Although the fate of the bill now rests with the committee, it is likely to receive further refinement before being debated by the full Legislature.

Since the public hearing, MMA has participated in discussions with Speaker Fecteau, members of Governor Mills' Administration and other interested parties. The goal among the varied parties is to chart a path forward for increasing access to safe habitable housing for all Maine residents, while addressing the issues raised during the public hearing. It is expected that none of the impacted parties will get everything asked for, however the ability to put aside differences to develop consensus speaks highly of the administration and legislature's support for the partnership approach, which is greatly appreciated.

A work session on LD 2003 has not yet been scheduled.

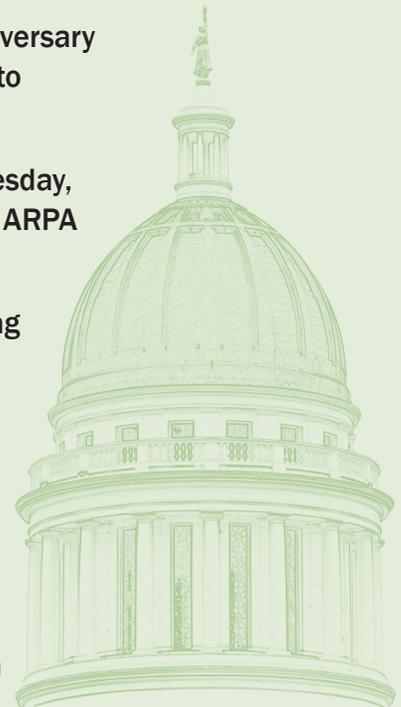
Hip Hip Hooray for ARPA 1-Year Anniversary Announcement

In celebration of the American Rescue Plan Act's (ARPA) one-year anniversary today, the White House Administration embarked on a week-long tour to recognize its many early successes.

Each day this week highlighted a different aspect of ARPA, with Wednesday, designated to recognize how state and local fiscal recovery funds from ARPA have helped local governments respond to the pandemic.

From Maine the early reports are tremendous, ARPA funds are providing needed relief in so many remarkable ways from COVID-19 mitigation to expanding needed food pantries or providing utility assistance. If you have an ARPA related story to promote, please tweet your achievements to the White House @WhiteHouse or relay your suggestions to MMA for posting. ARPA-related stories can be shared with Neal Goldberg at ngoldberg@memun.org.

On behalf of every community in the state, thank you to our Federal Delegation for making these funds available and fighting to keep them in Maine.



Paying More to Landfill Less

The Environment and Natural Resources Committee met Monday to hear trash related arguments for and against increasing the tipping fees at landfills for municipal solid waste and construction and demolition debris.

Testimony regarding LD 259, *An Act To Improve Solid Waste Management*, sponsored by Rep. Ralph Tucker of Brunswick, can generally be grouped into three camps: now, later, and never. As expected, those advocating for the increases now supported the bill and those against fee increases opposed the bill. The middle-ground group, hinting at smaller fee increases or a delay in increases, was split in their support.

MMA was one such middle-ground party that was swayed to offer testimony in opposition suggesting now is not the time to enact five-fold fee increases since no other practical disposal method exists for many communities. MMA offered comments that spoke to the constraints of cost, capacity, and practicality for communities seeking more sustainable disposal methods beyond landfilling. LD 259 exacerbates, overlooks, or undermines those constraints.

In summary, the bill arrives at a time when waste management in Maine is undergoing immense change. Waste management is already one of the costliest services municipalities provide to businesses and residents and LD 259 immediately makes provision of these services more difficult without offering any near-term relief.

Multiple municipal officials, on behalf of the towns they serve, also provided testimony in opposition to the bill.

Around the industry, representatives from ReSource Lewiston, the Associated General Contractors of America, Waste Management, Casella, Maine State Chamber of Commerce, and the Municipal Review Committee which serves over 115 towns, all opposed the bill with varying appetites to internalize the increased fees in the years ahead.

One overarching concern from industry

representatives is for the ratepayers and taxpayers to whom these fee increases will be passed on. MMA agrees with the assumption that this bill does not redistribute cost or benefit, it simply creates higher fees for Mainers without providing real hope for relief.

Not every industry stakeholder was opposed, however. ecomaine which provides services to over 70 municipalities supported the bill and embraced these fees for the vast landscape of disposal methods and facilities that should arise from LD 259.

Tacit in ecomaine's support is the belief that the revenue from these fees will be spread far enough to benefit every Maine community.

Woefully, only some communities will benefit from making landfilling as expensive as recycling, while some will just encounter higher rates without improved operations.

For example, this week the town of Norway approved \$40,000 in general fund revenue to improve its solid waste facility. Meanwhile, the average grant amount disbursed from the state's Solid Waste Diversion Program, funded with fee revenue, is about \$15,800 over recent years. This speaks to the larger stage where Maine's municipalities expended nearly \$10 million for recycling programs while the state distributed a combined \$300,000 in grants over two years. In order for ecomaine's dreams to become reality, the state needs to commit more resources to the waste management industry beyond small grant opportunities.

Select environmental interests were represented and primarily expressed optimism for the bill. Conservation Law Foundation, Sierra Club Maine, and Natural Resources Council of Maine all agree that landfilling is too affordably priced to make recycling a competitive alternative. However, some parties expressed doubt in relying on revenue generated by a tax on a behavior that the state hopes to disincentivize. Once successful, the state will

be without a revenue stream and will be forced to look for other pockets to draw the funds from.

Some of the present-day financial realities implicated by LD 259 were demonstrated in last week's Legislative Bulletin. Of note, this bill increases the average tipping fee for municipal solid waste by 5% and for construction and demolition debris by 14%.

Below is a snapshot of the economic circumstances of municipal waste management as projected by MMA's Fiscal Survey. *Table 1* compares the total revenue municipalities generate through local waste management programs (i.e., sticker sales, bag fees, etc.) with the expense for collection services (i.e., curbside pick-up, transfer station, hauling, etc.), disposal fees, and recycling programs, illustrating the increasing reliance on property tax revenues to fund the service.

Table 1: Municipal waste management programs

| | FY 2019 | FY 2020 |
|-----------------------|----------------------|----------------------|
| Revenue | \$14,170,904 | \$23,035,602 |
| Collection & Disposal | \$48,220,832 | \$61,320,263 |
| Recycling | \$6,265,337 | \$9,210,516 |
| Total Expense | \$54,486,169 | \$70,530,779 |
| Shortfall | -\$40,315,266 | -\$47,495,177 |

The circumstances are grim, and since LD 259 compounds the problem of affordability, MMA hopes the fees are postponed until the hard work of creating new disposal alternatives can bear fruit.

A work session for this bill will be held on Monday, March 14 at 11:00 a.m.



Maine Municipal Association

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IN THE HOPPER

Agriculture, Conservation & Forestry

(note: this bill has not yet been referred to a committee by the Legislature, so it is possible that it may be referred to a different committee.)

LD 2012 – An Act Regarding the Authority of Municipalities To Regulate Timber Harvesting. (Reported by Sen. Dill of Penobscot Cty. for the Joint Standing Committee on Agriculture, Conservation & Forestry)

This bill provides that municipal timber harvesting ordinances: (1) must include definitions for forestry terms that are consistent with definitions in state statute and those adopted by the Department of Agriculture, Conservation and Forestry (DACF); (2) limit the ordinances subject to review by the Bureau of Forestry to those regulating timber harvesting activities; (3) adopted between Sept. 1, 1990 and Sept. 1, 2022 must comply with the state law regulating forestry operations by June 30, 2026; (4) may be adopted only after certification by the bureau that the ordinance was adopted via the statutory process; and

(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.)

(5) must be consistent with a comprehensive plan adopted by the municipal legislative body. The bill also clarifies that the centralized listing of municipal ordinances maintained by the bureau specifically applies to ordinances that apply to timber harvesting activities.