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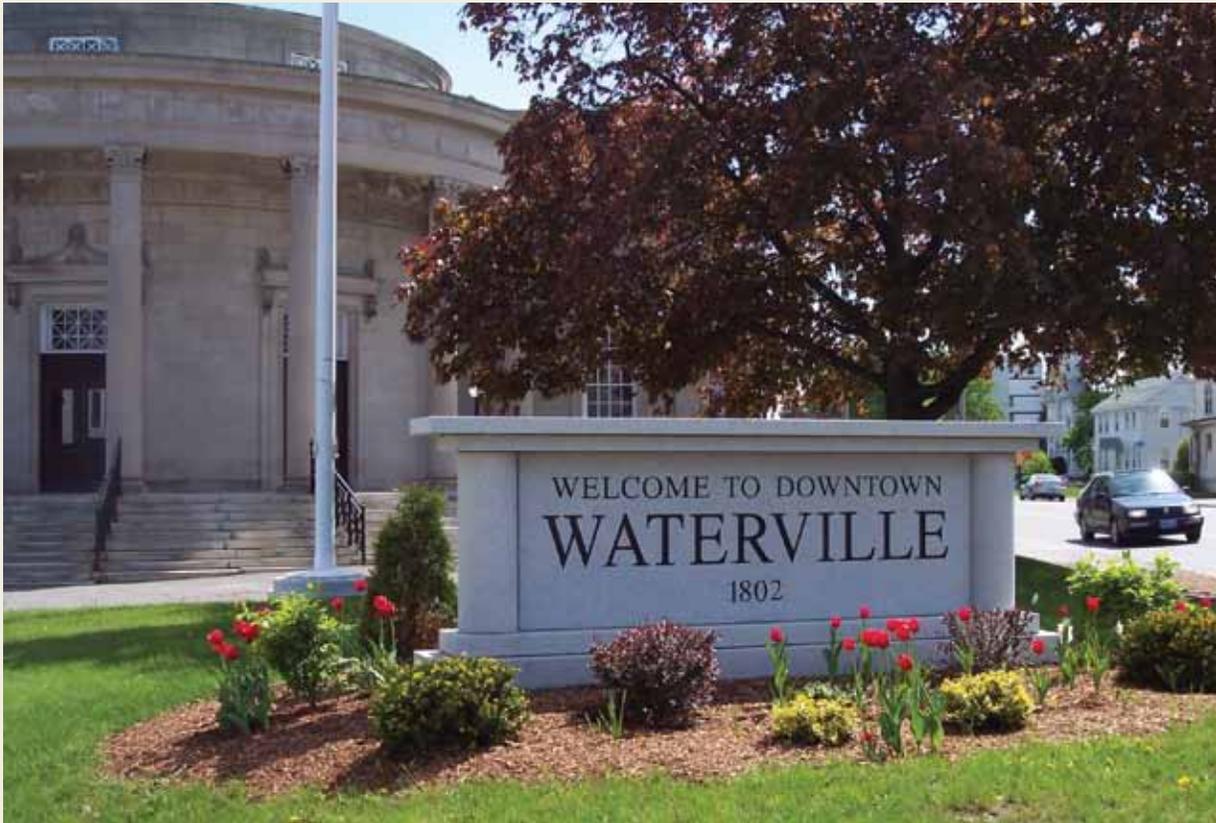
Municipal Assessing and the Personal Property Maze



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Faces of TIF • Training Calendar

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Farewell and Thanks for the Memories



Michael Starn

This issue of the Maine Townsman will be the last one where I will be listed as editor. Eric Conrad will be taking over this title and responsibility starting with the March issue.

This is my farewell column.

When your job has been such a big part of your life, it's hard to figure out what you want to say and where to start. But, here

goes.

I started working for Maine Municipal Association in January, 1975.

Thirty-five years is a long time to work for one employer. I am honored and humbled to be in that select group of individuals who have dedicated their working careers to Maine municipal government.

When I first started, I knew nothing about MMA, the Maine Townsman or Maine municipalities. One of my first days on the job, I remember a veteran MMA staffer laughing when I bungled the pronunciation of "Penobscot".

It didn't take me long though. I was amazed at how quickly and naturally the lexicon and facts about Maine local government came to me. With this job, I was a "fish in water". That's probably why I lasted so long.

Being the editor of the Maine Townsman for such a long time was a real privilege and I have a lot of great memories.

I moved to Maine from West Virginia in 1974.

MMA was looking for a staff writer and I had a college degree in journalism, so they wanted me and I needed the job. I had no idea at the time that I would be spending the next 35 years working for this organization.

John Salisbury was MMA executive director and the person who hired me. My job was to write articles for the Townsman and help Ethel Kelley with the production and advertising. Ethel had been at MMA since the organization was founded in 1937 and was trying to fit in publishing a magazine with her full-time receptionist duties.

MMA was a small organization back then with about 20 staff members. Everyone pitched in and helped out with the Townsman.

In the summer of 1975, I took over as managing editor of the Townsman and continued in that role until now. Like any job, the road has been bumpy at times,

but MMA and local government for me were like the family I left back in WV.

I grew up in the 1950s and 1960s in a little coal mining town in WV called Catawba with three brothers and a sister. We were poor, but so was everyone else in Catawba. Some were much worse off than our family. Like most families, when we get together we like to tell funny stories of our childhood. There's one that I think is reflective of West Virginia humor.

My sister, Sandy, was showing our new indoor plumbing to her friend, Donna, who came from a very, poor family. My sister was only 4 or 5 years old. Sandy was proudly showing Donna the new bathroom when Donna, curious about the bathtub, asked "who uses it?". Sandy responded, "we all do". To which Donna replied, "doesn't it get kinda crowded?"

MMA has provided some memorable, though probably not as funny, stories for me as well. Here are a couple of them:

One of my first and fondest memories is going to the Town of Stockton Springs in the late 1970s to interview a gentleman who had been town clerk there for 67 of the prior 68 years. His name was Walter Trundy. He was 97 years old, still town clerk, and he told me that he had spent his entire life in Stockton Springs, except for one short trip to Boston. "When I got back and smelled those flapjacks, I knew I'd never leave (Stockton Springs) again," he told me. I wrote the story about Walter in the January, 1978 Townsman, and I believe, it was the only media interview that Walter ever granted. Then Congressman Bill Cohen asked to reprint the article in the Congressional Quarterly and I agreed. Walter died less than a year after the Townsman article was published.

Bob Garland, a selectman in Anson for 47 years, was another municipal official and friend who brings back pleasant memories. Bob was President of MMA in 1975, the year I was hired. I was the MMA Convention Coordinator for most of my MMA career. Every year around the end of September, I knew I would be getting a call from Bob asking me to make sure he had an overnight room reserved for the convention. Bob always shared a room with Elery Keene, who headed up the Northern Kennebec RPC. Many times, I wondered why Bob didn't just make the hotel reservation himself, but now I'm glad he felt he needed to call me. Bob died about 10 years ago. I don't remember Bob ever missing an MMA Convention during those years at MMA.

Maine local government and MMA will always hold a special place in my heart. I've met and worked with a lot of great people. Early in my career at MMA, I established some close friendships that have continued to this day, and I found a few other friends along the way.

Looking back, I am feeling pretty lucky. 



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The Complexities of BETE & BETR

By Douglas Rooks

On at least one point about the Business Equipment Tax Exemption program, better known as BETE (or “Betty”), the municipal assessors who administer it locally and the state officials who oversee the new program agree: It’s awfully complicated.

When the Legislature, responding to an initiative pressed by Gov. John Baldacci through four annual sessions, agreed in 2006 to repeal the existing personal property tax on business equipment, it did so by creating a whole new program, BETE.

Already on the books was BETR (Business Equipment Tax Reimbursement), installed in 1995 at the behest of then-Gov. Angus King. As the name implies, businesses were reimbursed by the state for the cost of the personal property taxes they paid to municipalities on all qualifying equipment put into service after April 1, 1995.

Since the law at first applied to relatively small amounts of taxable valuation, it occasioned little attention, but as the bill for reimbursements grew, so did the unhappiness of key legislators, who saw BETR as effectively reducing state revenues that could have been used for other programs. In 2005, lawmakers voted to cut BETR reimbursements from 100% to 90% for tax year 2007, a move that triggered a renewed push by business interests and the Governor’s office for outright repeal of the personal property tax rather than a reimbursement system.

What was finally agreed to at the close of the 2006 session was a three-part system: Business equipment put into service before 1995 remains taxable, and equipment installed from

1995-2007 would continue to be taxable and eligible for BETR reimbursement. And, for most equipment installed after April 1, 2007, businesses no longer would pay taxes, and the municipalities would be reimbursed by the state for this exempt property, at least for a certain percentage of their tax revenue losses.

Initially, those reimbursements were made at 100% for tax year 2008, but they decline by 10% a year until reaching the constitutional minimum of 50% by tax year 2013, though there are exceptions for towns unusually dependent on personal property tax revenue. [This exception only applies to communities where personal property accounts for more than 5% of the total tax base – the higher the percentage the higher the reimbursement rate].

Two years into the new program, BETE remains a hot topic among assessors and other municipal officials, who are still adjusting their approaches and figuring out how to explain the results to taxpayers.

Since the advent of BETR, assessors have been directly involved in the state’s personal property tax relief efforts. While Maine Revenue Services is the agency that approves the reimbursement to businesses for BETR property, it has been local assessors who have worked with businesses to help them determine their BETR eligibility.

But the municipal role changed significantly with the adoption of BETE. Not only did assessors have to administer a new program with different definitions and new application forms, but municipal budgets became directly dependent on another form of state transfer payments, along with revenue sharing, homestead exemption, tree growth, General Purpose Aid to

Education and some others.

For both of these business tax relief programs, the local assessors establish valuation and depreciation for equipment, even under BETE where the property is exempt from taxation.

A MILL TOWN VIEW

Roger Raymond, town manager of Bucksport, where the Verso paper mill is the leading taxpayer, is not sure the BETE law did mill towns a favor by the gradually decreasing subsidy levels. As it happened, Verso did some significant upgrades in the first year BETE was in force, adding \$20 million to its valuation and bringing in \$400,000 in state reimbursement.

But that reimbursement will soon diminish, and in a town the size of Bucksport, that will have a major impact on the budget. “I’m not sure how effectively I can explain that to the town council,” let along local taxpayers, Raymond said.

Then there is the anxiety that municipal officials feel in the midst of the state’s current budget problems, wondering about when, and whether, the state checks will come for the BETE reimbursement. BETR reimbursements, which go to businesses, will be reduced to 90% again for tax year 2010. So far, BETE reimbursements (to towns) remain intact.

Raymond said that last year, the first in which the state checks for BETE came in, Bucksport got its payment in December, and he worried about what might happen this year. When the check arrived on January 18, he felt a palpable sense of relief.

Bucksport is also one of those towns that will likely trigger the threshold for enhanced reimbursement, based on the proportion of personal property in its tax base. Raymond figures that the

Douglas Rooks is a freelance writer from West Gardiner and regular contributor to the Townsman, dlooks@tds.net

ultimate floor for Bucksport will be about 62%, though that depends on future valuations and the amount of new investment.

Somewhat surprisingly, even the drop to 90% reimbursement (for BETE) this year nearly triggered enhanced payments for one town, New Limerick, which has two major mills, according to state Property Tax Division Director David Ledew. Ultimately, Maine Revenue Services estimates that as many as 130 municipalities will receive more than the 50% minimum.

Part of the state's motivation in enacting BETE was to reduce the burden on the biennial budget, though the effect has been scant so far.

Mike Allen, chief of research for MRS, said that in fiscal 2008, the last year without BETE, the state paid out \$68 million in BETR reimbursements.

For fiscal 2009, the state paid \$66 million for BETR and \$8.2 million for BETE, a total of \$74.2 million.

For fiscal 2010, actual reimbursements so far have totaled \$49 million for BETR and \$11.5 million for BETE. MRS projects that, for the full year, BETE payouts will be \$15 million and BETR will cost \$56.6 million, for a total

of \$71.6 million. In all, the programs are likely to cost the state more than \$145 million for the last two fiscal years.

TIME AND MONEY

Then there is the impact at the municipal office, which the assessors judge to be substantial.

"This is a program that takes a lot of time to administer," said Anne Gregory, Falmouth assessor who's also past president of one of the state assessors' associations (MAAO). She estimates that it takes an employee in her office two weeks to establish the valuations and eligibility for the BETR and BETE programs, and another four weeks to process applications.

"A lot of businesses don't really understand what's eligible," she said, "so they end up applying for everything."

The Falmouth assessor's office determined BETR-eligible only 29 of the 42 applications it received last year, and it rejected an even higher proportion of the 71 BETE applications it received.

The paperwork crunch is so severe that Gregory said she won't send out BETE forms next year with the busi-

ness tax packet, as the town did for the first two years of the program, and instead let businesses make the decision to apply on their own.

It's understandable that businesses might be confused about eligibility because the BETE program excluded retail businesses, including many that had been eligible for BETR. Eligibility for BETR by such big box retailers as Wal-Mart prompted the Legislature to cut back the program so that it only covers retail establishments occupying less than 100,000 square feet, but smaller merchants could still receive checks – as some still do, for amounts as small as \$50.

The new rules might seem to simplify things, but in taxation things are never quite that easy. The new definition of retail property excluded in the BETE law emphasizes two points: the equipment is used at an establishment distributing products to the public, and payment is collected on site. Specifically, the excluded retail component is defined as "business activity associated with the selection and purchase of goods or services or the rental of tangible personal property by on-site retail customers."



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That definition, in the opinion of some municipal assessors, leads to some interesting results.

Brenda Cummings, assistant assessor in Bath, who deals with personal property, said that under her interpretation, lawyers do qualify for BETE but physician practices do not. The difference? Lawyers perform many of their services out of the office, and do not generally collect payment from clients on site. Doctors, on the other hand, provide services and collect fees in the office.

Not every local physician agreed, Cummings said, contending that the insurance company was the real payer for services. But even in those cases, a co-pay was usually required after a visit, she noted.

In another example, accountants can qualify for BETE, while tax preparers do not. The latter both serve clients and accept payments in their offices, she said.

Anne Gregory came up with an even more provocative distinction – by some estimates, newspaper racks displayed inside a store would be taxable under the retail definition, while racks on the sidewalk would be exempt.

Asked about these various interpretations, David Ledew at MRS said that the lawyer-doctor and accountant-tax preparer distinctions made sense, though he added the caveat, “It would depend a bit on what kind of law was being practiced.”

About the newspaper racks, though, he said that the inside-outside distinction wouldn’t apply. “Wherever they’re located, they’re still part of the same retail establishment under the law.”

But in case any taxpayer remains disgruntled, Ledew said they needn’t worry. Retail property excluded from BETE remains eligible for BETR, which was specifically extended by the legislation past 2007 for the sole purpose of covering retail, though the previous BETR exclusions still apply.

Ledew said that the existing “Guidance” memorandum from MRS issued in 2008 remains the key document for assessors, but he acknowledged that more specific descriptions of eligible equipment might be in order. “With two years under our belt, it might be a good time to go out and get the views of assessors about how it’s working,” he said. He noted that bureau officials re-

main available for public presentations on how the law works.

The different eligibility standards may explain why so many businesses file applications for both BETR and BETE, but Brenda Cummings still finds it frustrating. She will generally work with a local business trying to figure out the law, but doesn’t think it’s worthwhile for the out-of-state leasing companies that tend to “claim everything” on their applications. “It’s just not worth their while to figure out the details in every jurisdiction where they operate,” she said.

BIG TICKET ITEMS

There’s little question that personal property remains a big item on some municipal tax rolls, and that assessing it can be a bit trickier than establishing the value of buildings and lots.

South Portland is home to the Fairchild and National Semiconductor plants whose split and possible expansion in Maine helped prompt Gov. King to propose the BETR program after taking office. And personal property is still a big deal there, according to Bob Tripp, the deputy assessor who also serves Westbrook under the two



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For 2009, South Portland had 89 BETE accounts covering \$125 million in valuation, which produced \$1.84 million in state reimbursement for the city. Of the total valuation, \$68 million is attributable to Fairchild and \$39 million to National Semiconductor. "Computer plants are constantly upgrading," Tripp said. "It's the nature of their business."

In Westbrook, by comparison, 74 BETE accounts cover \$29.5 million in valuation, producing \$493,000 in reimbursements.

Tripp hasn't seen the difficulties reported by assessors in some of the smaller towns, for the most part. "Most of our BETE customers were also BETR-eligible," he said. "They already understood the system, so it wasn't a hard transition."

IS IT WORTH FINDING?

Going out into the rural areas where businesses are small, and often few and far between, it's a different story, according to John O'Donnell, whose assessing firm, based in New Gloucester, serves more than 30 Maine communities. They range in size, at the smaller end, from Gilead, up to a cluster of medium-size towns such as Naples, Raymond, and Casco.

Generally, assessors in small communities are not professionally trained and many simply do not want to deal with personal property assessing, he said. The advent of BETR and BETE has certainly not changed that situation.

"It's partly a matter of resources," he said. "Given the municipal revenue stream, does it really make sense to devote a lot of time to bringing in a relatively minimal return?"

But O'Donnell advises all his clients to make the effort to identify personal property for taxation purposes, and said that including applications with the annual inventory forms can help compliance. The proprietary software he provides to his client towns has spreadsheets that make it relatively easy to calculate BETE eligibility, he says.

DON'T FORGET TIFS

If assessors thought they were out of the woods at this point, they aren't quite. There's also the question of TIFs – the tax increment financing districts

many towns and cities use to encourage new business investment and to fund necessary public infrastructure improvements. These TIF agreements shelter value from state assistance formulas that are valuation-based, such as GPA and revenue sharing, and county taxation.

The issue involves what will happen when the municipal reimbursements under BETE decline, and fall below the value of the TIF agreement presumed in the original plan. "That's another separate calculation, and you've got to be ready to make it," said Anne Gregory.

David Ledew notes that this scenario would only apply to TIFs where the municipality retains tax revenue from the TIF rather than returning it to the taxpayer.

ACCOUNTABILITY FACTOR

Finally, there's the question of whether these tax programs are really working as intended. The reimbursement of personal property taxes, first to business and now to municipalities under the new exemption, was supposed to stimulate investment and create jobs. Has it done so?

There's no official state report or document that offers much guidance in that area.

"As assessors, we stay away from those debates," Gregory said. "I might have a personal opinion on the subject, but our job is to apply the law as it exists, and however the Legislature might choose to change it."

Roger Raymond is not so bashful on the subject. "At the time it was adopted, a lot of us were questioning the purpose," he said. The TIF model, he said, is a good one. "It's a specific agreement between two parties, and it can cover a lot of things, such as how many jobs are being provided and for how long."

Programs like BETE and BETR, he said, don't have that kind of accountability. "It's intended to produce new jobs and new business, but there's nothing that really tells us whether that's happening."

PUBLIC UNDERSTANDING

For the assessors, the big question is whether the public can understand the law and whether businesses will apply for the right programs, eventually, easing the burden on assessors.

"It's no problem for a business like BIW (Bath Iron Works), obviously," said Brenda Cummings. "For a lot of others, though, it's a different story."

David Ledew believes that the admittedly complex law can still be manageable for local assessors, with enough time and practice. "If you take it step by step," he said, "you should be able to come to the right conclusions." 

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LD 1 Worksheet for Budgeting & Reporting

By Michael Starn, Editor

A new worksheet to help municipal officials calculate the LD 1 Property Tax Levy Limit for 2010 has been developed by the State Planning Office (SPO) and is shown on pages 15 and 16 of this issue of the Townsman. The worksheet is also on the MMA website, www.memun.org as a printable and an “interactive” pdf document.

This SPO worksheet is the one that municipal officials should be using to make their LD 1 spending limit calculation for calendar year 2010 budgets and FY 2010-11 budgets. Maine Municipal Association collaborated with SPO on the development of the worksheet and MMA will no longer publish a separate LD 1 worksheet.

A confusing aspect of LD 1 for some municipal officials is “when to calculate” the property tax levy limit. Part of this confusion stems from the fact that the LD 1 law has both budgeting and reporting requirements. For that reason, municipal officials should be filling out part of the worksheet prior to their municipal budget adoption and completing the end of the worksheet after property taxes have been committed. In past years, MMA and SPO have done separate calculation worksheet and reporting forms. This LD 1 levy limit calculation and LD 1 reporting can now be accomplished using just this one form.

The LD 1 law is now five years old, enacted in January 2005. LD 1 property tax levy limit calculations have been part of the municipal budgeting process for four or five years, depending on whether the community operates on a fiscal year or calendar year. Still, the LD 1 process for calculating a property tax levy limit can be confusing at times. This new worksheet will hopefully simplify the process and reduce the amount of time that local officials will spend on their LD 1 calcu-

lation and reporting.

The easiest way to explain the worksheet is to comment on the various lines and sections of it from beginning to end. This information is provided with the assumption that municipal officials generally understand the LD 1 spending limit process. It is not meant to be a complete instructional guide for the worksheet.

Specific questions regarding LD 1 spending limit calculations should be addressed to SPO Mike LeVert at SPO, 287-5649, or Kate Dufour, at MMA 1-800-452-8786 ext. 2213, or Mike Starn at MMA, 1-800-452-8786 ext. 2221. Email addresses are: Michael.levert@maine.gov; kdufour@memun.org; mstarn@memun.org

Line 1. After the first year’s spending limit calculation under LD 1 (2005 for fiscal year/2006 for calendar year), municipalities have used the previous year’s Property Tax Levy Limit as the basis for the next year’s calculation. *Unless* your legislative body (town meeting or council) gave permission through a specific voting process to *increase* the Property Tax Levy Limit in 2009, your starting point for the 2010 LD 1 levy limit calculation is the 2009 Property Tax Levy Limit that was calculated last year on a similar worksheet and should be entered in Line 1 of this worksheet. If the municipal legislative body voted in 2009 to override the LD 1 limit and “increase” it, then the municipality needs to set a new limit which will be your starting point for 2010. That calculation uses the 2009 Municipal Tax Assessment Warrant information and is shown in the lines A-D before Line 1.

The special voting procedure required under LD 1 is a “written ballot” vote at town meeting or a “strict majority” vote by the council to *increase* the levy limit. This same procedural

voting is required to *exceed* the levy limit; however, this LD 1 override process does not establish a permanent, higher levy limit (i.e., you would use the 2009 limit as the starting point for the 2010 calculation).

Lines 2-4. These lines of the worksheet are used to calculate the Property Growth Factor which will be added to the Income Growth Factor (supplied by SPO) to create a Growth Limitation Factor, which is the percentage growth allowance for determining the 2010 Property Tax Levy Limit. The Property Growth Factor is expressed as a fraction with the “new value” being the numerator and the “Total Taxable (Municipal) Value” being the denominator. That fraction is converted to a four-point decimal (see Income Growth Factor) and placed on Line 4. The municipal assessor is typically the person who calculates the Property Growth Factor. Different methodologies are used to do this calculation. An important point to remember is that “new value” means “value taxed for the first time”. New value does not include inflationary value changes, so be careful with revaluations and factoring. Confusion also arises over what assessment period to use for the “new value”. Because the LD 1 calculation is supposed to be done *before* the budget is adopted, it makes sense to use the prior year’s assessment data (for 2010, the assessment period would be from April 1, 2008 to April 1, 2009). The LD 1 law allows a municipality to use the “most recent property tax year for which information is available”. Normally, municipalities don’t have current year assessment figures until the property taxes are ready to be committed (late summer or early fall). This is well after the municipal budget has been developed and approved.

Line 5. The Income Growth Factor, provided in the latter part of 2009 by SPO, is the same number for every municipality. Expressed as a percentage, the Income Growth Factor for 2010 is 1.78% (.0178 as a decimal).

Line 6. The Growth Limitation Factor is the sum of the Property Growth Factor and the Income Growth Factor.

Line 7. For calculation purposes, you need to place a 1 in front of the Growth Limitation Factor. Some people have mistakenly thought of the levy limit as the percentage growth allowance from one year to the next. The

Property Tax Levy Limit is actually the percentage growth allowed, added to the prior year's levy limit (e.g., a 4% growth allowance will be 104% of the prior year's levy limit).

Lines 8-11. The final Property Tax Levy Limit is adjusted by changes in State-Municipal Revenue Sharing. The original LD 1 law called this adjustment "Net New State Funding". For the past two years, the adjustment has been applied only to revenue sharing changes. Originally, "Net New State Funding" could only be used to *lower* the Property Tax Levy Limit, when a community received more state funding (adjusted by the growth factor) than it had in the prior year. Now, a community that loses revenue sharing can actually increase its Property Tax Levy Limit. For example, a community that received \$100,000 of revenue sharing in 2008 and then received \$90,000 in 2009 would be allowed to add \$10,000 to its 2010 Property Tax Levy Limit. It is important to note that the revenue sharing comparison should be based on calendar years. For 2010, you will compare receipts from calendar year

2009 to calendar year 2008. Lines 10A and 10B are filled in when there has been a gain of revenue sharing (that is subtracted from the Levy Limit) and Line 11 shows a loss of revenue sharing (that can be added to the Levy Limit).

Lines 12-13. This box titled "Calculate This Year's Municipal Property Tax Levy Limit" is the final calculation of the 2010 Property Tax Levy Limit. The Line 12 calculation gives you a preliminary levy limit and then Line 13 makes the revenue sharing adjustment to provide a final levy limit in the shaded area at the end of the box. If your municipal legislative body does not vote to "increase" the LD 1 levy limit in 2010, this is the number that will be the starting point (Line 1) for the 2011 LD 1 worksheet.

REPORTING LD 1 INFORMATION

The next box, titled "Calculate This Year's Municipal Property Tax Levy", is bound to create some confusion because the title is the same as the previous box except for the word "Limit". The calculation of a "Municipal Property Tax Levy" has two purposes: (1) it can be used to determine if

your community is likely to go over its LD 1 limit before the budget gets adopted; and (2) it should be filled out after property taxes are committed to determine the new 2010 Property Tax Levy Limit for those communities that voted to "increase" the LD 1 limit and to allow communities that stayed within their LD 1 limit to see how far under the limit they ended up. Line 14 will be used on the 2011 LD 1 worksheet (Line 1) only by those communities that voted to "increase" their levy limit.

Lines 15-17 are also for reporting LD 1 information to SPO and should be completed after taxes are committed.

The final copy of this worksheet (after taxes are committed) should be kept in the municipal Valuation Book or some other easy to access location, and a copy should be sent to Kate Dufour at MMA, 60 Community Drive, Augusta, ME 04330.

The SPO and MMA have agreed to share this information, so you will only need to fill out this one LD 1 reporting form in 2010. A reminder mailing from MMA will be sent to municipalities in July. [www.mma](http://www.mma.me.gov)

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STATE PLANNING OFFICE - 2010 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET

Questions? Call the State Planning Office - 287-5649 or 1-800-662-4545. Or visit "<http://www.maine.gov/spo/economics/ld1>"

Municipality: _____ Contact Person*: _____ Phone Number: _____

*** The Contact Person should be able to answer clarifying questions about the reported information.**

The following two pages show how to calculate your municipality's property tax levy limit. Completing these pages is not mandatory, but doing so will help ensure that your municipality complies with Maine law on the rate of property tax increases.

Information on new property, appropriations, and deductions should be collected from the assessor and the valuation book before completing these pages.

The use of the term 2010 refers to either the Calendar 2010 budget year, or the Fiscal July 1, 2010 to June 30, 2011 budget year.

LAST YEAR'S MUNICIPAL PROPERTY TAX LEVY LIMIT

This is the portion of 2009 property tax revenue used for municipal services.

- If last year the municipality committed LESS THAN or EQUAL TO the limit, enter last year's limit on Line 1 below.
- If last year the municipality voted to EXCEED the limit ONCE (just last year), enter last year's limit on Line 1 below.
- If last year the municipality voted to INCREASE the limit PERMANENTLY, complete Steps A-D below. The information needed for this calculation is on the *Municipal Tax Assessment Warrant*, filed in the Valuation Book.

A. Last year's Municipal Appropriations (Line 2, *Municipal Tax Assessment Warrant*) \$ _____

B. Last year's Total Deductions (Line 11, *Municipal Tax Assessment Warrant*) \$ _____

C. If necessary, enter any revenue included in Total Deductions that paid for non-municipal appropriations, such as schools. (If all deductions paid for municipal appropriations, enter "0".) \$ _____

D. Add Lines A and C, and subtract Line B. Enter result on Line 1 below.

1. LAST YEAR'S MUNICIPAL PROPERTY TAX LEVY LIMIT \$ _____

CALCULATE GROWTH LIMITATION FACTOR

- Each municipality's Growth Limitation Factor is based on local property growth and statewide income growth.

2. Total New Taxable Value of lots (splits), buildings, building improvements, and personal property first taxed on April 1, 2009 (or most recent year available) \$ _____

3. Total Taxable Value of Municipality on April 1, 2009 (or most recent year available) \$ _____

4. Property Growth Factor (Line 2 divided by Line 3) _____

5. Income Growth Factor (provided by State Planning Office) **0.0178**

6. Growth Limitation Factor (Line 4 plus Line 5) _____

7. Add 1 to the Growth Limitation Factor calculated in Line 6. _____

(For example, if Line 6 is 0.0362, then enter 1.0362 on Line 7.)

STATE PLANNING OFFICE - 2010 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET

STATE PLANNING OFFICE - 2010 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET

CALCULATE CHANGE IN REVENUE SHARING (previously "NET NEW STATE FUNDS")

- Determine if revenue sharing increased or decreased. All towns should use calendar-year revenue.

- 8. Calendar-Year 2008 Municipal Revenue Sharing \$ _____
- 9. Calendar-Year 2009 Municipal Revenue Sharing \$ _____
- 10. If Line 9 is greater than Line 8, then complete the steps below. Otherwise go to Line 11.
 - A. Multiply Line 8 by Line 7. \$ _____
 - B. Calculate Line 9 minus Line 10A. Enter result at right and skip Line 11. \$ _____
(If result is negative, enter "0".)
- 11 If Line 9 is less than Line 8, then calculate Line 8 minus Line 9. Enter result at right. \$ _____

CALCULATE THIS YEAR'S MUNICIPAL PROPERTY TAX LEVY LIMIT

- This year's Property Tax Levy Limit is last year's limit increased by the Growth Factor and adjusted for revenue sharing.

- 12 Apply Growth Limitation Factor to last year's limit. (Line 1 multiplied by Line 7) \$ _____
- 13 **THIS YEAR'S MUNICIPAL PROPERTY TAX LEVY LIMIT**
 If Line 9 is greater than Line 8 (revenue sharing increased), you MUST subtract Line 10B from Line 12. This is required.
 OR If Line 9 is less than Line 8 (revenue sharing decreased), you MAY add Line 11 to Line 12. This is optional.
 - Enter result at right. \$ _____

CALCULATE THIS YEAR'S MUNICIPAL PROPERTY TAX LEVY

- The information needed for this calculation is on the 2010 *Municipal Tax Assessment Warrant*, filed in the Valuation Book. Use estimates if necessary.

- A. This year's Municipal Appropriations (Line 2, 2010 *Municipal Tax Assessment Warrant*) \$ _____
- B. This year's Total Deductions (Line 11, 2010 *Municipal Tax Assessment Warrant*) \$ _____
- C. If necessary, enter any revenue included in Total Deductions that paid for non-municipal appropriations, such as schools. (If all deductions paid for municipal appropriations, enter "0".) \$ _____
- 14 **THIS YEAR'S MUNICIPAL PROPERTY TAX LEVY** (Add Lines A and C, and subtract Line B) \$ _____

15 COMPARE this year's MUNICIPAL PROPERTY TAX LEVY to the LIMIT (Line 13 minus Line 14) \$ _____
 (If the result is negative, then this year's municipal property tax levy is greater than the limit.)

16 Did the municipality vote to EXCEED the limit ONCE (just this year)? NO YES

(Voting to exceed the limit means the municipality will calculate next year's limit based on line 13.)

If "yes", please describe why:

17 Did the municipality vote to INCREASE the limit PERMANENTLY (for current and future years)? NO YES

(Voting to increase the limit means the municipality will calculate next year's limit based on line 14.)

If "yes", please describe why:

STATE PLANNING OFFICE - 2010 MUNICIPAL PROPERTY TAX LEVY LIMIT WORKSHEET

New Faces of TIF

By Lee Burnett

At a time when most state and local officials are scrambling to find ways of stimulating economic activity in Maine, a few of the people very knowledgeable about local government's largest economic development, property tax incentive program – tax increment financing (TIF) – are calling for a reevaluation, or at least a more complete accounting, of it.

The new scrutiny is being driven by two factors. The first is the TIF-ing of large wind farms in the Unorganized Territory (UT), which has led to the bizarre prospect of spending large sums of tax money in the most remote regions of the state. The second is the growing, sometimes controversial tax shift that comes from the cumulative effect of TIFing hundreds of millions of dollars worth of property over the past two decades.

Sen. Richard Nass, R-Acton and the senior Republican on the Taxation Committee, has waged a lonely fight against the expanding use of TIFs. And, Sen. Peter Mills, R-Cornville, a tax expert, and Majority Leader John Piotti, D-Unity, tried to redirect the tax benefits of wind farms to a regional level, but ran into constitutional and political problems. Meanwhile, officials at Maine Revenue Services are airing their view that the costs of the TIF program have been downplayed and should be more broadly understood by voters.

But these voices have yet to gain much traction. The TIF program remains a popular if not indispensable economic development tool at the local level. So popular, in fact, that the Maine Legislature this year made

Maine the first state to allow TIF money to support transit service.

TRANSIT

Much to many people's surprise, the Maine Legislature in 2009 extended use of TIF funding to support new or expanded bus service, van service, ferry service or bicycle-pedestrian infrastructure. Even the legislation's leading proponent, South Portland Planning Director Tex Haeuser, professed to being "a little bit surprised" that the bill passed.

"People seem to think it fit – for environmental reasons, for transit reasons, for a lot of reasons," he said. "I think they [legislators] saw that it could be used in different parts of the state – for van service, ferry service. It wasn't just bus service."

Generally, a transit TIF is part of a larger downtown redevelopment strategy of clustering a mix of housing, offices, and retail shops within walking distance of bus and train service. It is already happening without TIFs in places like Saco Island in Saco and Maine Street Station in Brunswick. To facilitate more of that development, South Portland and Orono are now considering implementing transit TIFs.

The way it works, a community designates a zone or corridor served by – or projected to be served by – transit. As development or redevelopment within that zone increases property values, a portion of the additional tax dollars generated by those investments are segregated and directed to support transit service. The TIF money can be used for capital expenditures and, for the first time, it can be used for operating expenses, e.g. bus drivers' salaries.

South Portland has appointed a

committee to consider how to implement a transit TIF, according to Haeuser. It could be used to extend a bus route or to reduce waiting times on existing bus routes, he said.

"To an extent, this is looking ahead. An energy shock could be back. If it does, there could be more interest in this," he said.

Nass argued unsuccessfully against extending the TIF program to transit, partly on the grounds that using TIF money to support non-profit organizations' salaries – rather than infrastructure investments, private sector jobs or economic development initiatives – represents "a significant departure." Nass says the TIF program is being extended into areas where it "doesn't fit" and it is distorting the state's revenue sharing formula. More on that later.

WIND POWER

A bizarre situation is developing around the TIF-ing of wind farms in the 10 million acres of northern and eastern Maine where there is no municipal government and where tax rates are already among the lowest in the state.

To begin with, it's highly debatable whether property tax breaks are even necessary inducements for wind development. Wind development already receives substantial tax advantages from the federal government. Nass, as staunch a conservative as there is, says taxation of wind power makes sense. "No I'm not against taxing them, these are huge projects," he said. The necessity of property tax breaks is certainly undercut by First Wind's decision to apply for a TIF from the Town of Freedom *after* it had constructed three turbines on Beaver Ridge. (The \$10 million investment lowered the town's

Lee Burnett is a freelance writer from Sanford, leeburnett_maine@hotmail.com

mill rate from \$17 per thousand to \$14 per thousand, according to Selectman Carol Richardson.)

The merits of wind power TIFs aside, consider how the TIF mechanism is working in the unorganized territory (UT). Washington County Commissioners two years ago TIFed the \$65 million wind farm on Stetson Mountain, giving back to developer First Wind \$5.6 million in property tax revenue over 20 years through a "credit enhancement" agreement and dedicating the remaining \$3.8 million for economic development. (County commissioners serve as de facto municipal officials for the purposes of the TIF program in the UT.) That gives Washington County Commissioners about \$190,000 a year to spend on economic development projects in the woods and wetlands of the most remote regions of the state.

"How many snowmobile bridges do we need?" is the mocking refrain that has arisen since then.

"It doesn't make sense," said State Sen. Nass. "You're putting a whole pile of money into an area where no one lives."

Understandably, Washington County Commissioners opted to spend the TIF money on economic development in Eastport (located in Washington County, but outside the UT), reasoning that money spent there would benefit the most people. But those plans are on hold due to an opinion from Maine Attorney General's office that the Maine Constitution requires that property tax receipts in the UT must be spent within the UT.

Piotti and Mills pushed to exempt wind power in the UT from property taxes altogether and instead to impose a more broadly usable excise tax on wind power in the UT. The tax would be proportional to the amount of power generated and would be backloaded so it is lightest during the early years when a mortgage is being paid off, explained Mills. But their idea ran afoul of another opinion of the AG's office – that constitutional fairness dictates the taxation of a particular activity should be uniform regardless of its location. In other words, if an excise tax is substituted for property taxes on wind power in the UT, it should be the same on wind power in organized towns. Mills favored a constitutional amendment to change that, but the wind

industry opposed it and Piotti opted not to pursue it, said Mills. "We don't have a solution. The constitutional constraints are pretty awful," said Mills

So the status quo continues, barring the UT gateway communities of Rangeley, Jackman, Greenville, Milinocket, and the like, from benefiting from wind power in their backyards. As Mills said he noted in a recent talk to residents of Jackman. "You could have the horror show where Plum Creek leases Johnson Mountain to a wind power developer. You folks in Jackman can look at the turbines but receive absolutely none of the tax benefit, not even any of the power."

TAX SHIFT

TIFs are now among the biggest

economic development programs in the state. Their use has tripled in the past decade, climbing from \$18.6 million in 1999 to \$54.4 million in 2008, according to Maine Revenue Services. The TIF program is ten times as big as the state employment tax rebates available under the Pine Tree Zone program and many times larger than the CDBG program. The TIF program's only rival in size is the \$55.5 million BETR/BETE programs for business equipment tax exemptions.

The expansion of the TIF program has coincided with a misperception that the program is painless and cost free, say critics. First some background.

Ordinarily, as the tax base of a community grows, it lightens the relative



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tax burden on everyone in that community. (Some compensating factors kick in that slightly offset the lifting of the burden – such as a higher county tax, less state aid to education and less municipal revenue sharing – but this is how the state’s imperfect “share-the-wealth” tax system is supposed to work. As the wealth in your community increases you get less state aid.)

By contrast, a TIF “shelters” a new commercial investment from the usual tax consequences. In essence, the new valuation is taken off the state’s books so when a new business expands the tax base it doesn’t penalize a community in loss of state subsidy. Think of a TIF as a tiny short circuit in the functioning of the subsidy formula. It makes it possible for a community to experience only the flow of new tax money in and not the ebb of reduced state aid out. But someone pays when a community retains state aid that should be reduced and that someone is every other community in the state. In wonk-speak it is called a “tax shift.”

The Maine Revenue Service has tallied up the tax shift and produced a spreadsheet that Nass calls “a pretty revealing document.” Maine Revenue Services is quick to point out an assumption behind the tax shift – that all of the TIFed projects would have

gone forward without a TIF. (The spreadsheet can be seen with the online version of this article at: www.memun.org)

What the spreadsheet shows is that nearly two-thirds of the communities in the state – 360 of the 495 communities – have been net TIF losers and the biggest losers are paying more than \$100,000 a year for other communities’ TIFs. Even some TIF-active

communities wound up in the losers column because the state subsidy their TIFs preserved was outweighed by paying for other communities’ TIFs. The spreadsheet also shows that 91 communities have neither won nor lost and just 44 communities have been net winners. The biggest winners tend to be communities whose TIFs are so large – an expansion at Bath Iron Works, rebuilding a paper-

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making machinery or constructing a bottling plant – that they more than compensate for paying for other communities' TIFs.

Officials at Maine Revenue Services have been accepting speaking invitations in communities that are considering TIFs – including Woodstock, Roxbury and Byron – to explain the cost of TIFs.

“It’s not that we’re anti-TIF, we’re pro a fully-informed public,” said David Ledew of the property tax division at Maine Revenue Services. “The public doesn’t always see the broader picture. TIFs are usually explained as ‘what if the TIF is approved.’ We want people to understand ‘what if there is no project’ and ‘what if there’s a project, but no TIF.’”

Ledew said most – but not all – towns understand the mechanics of a TIF. He’s aware of towns that failed to realize the expected benefits because the program was poorly administered.

“It’s almost like: ‘other towns have a TIF, so it must be a good thing. We need a TIF too.’”

They do not always understand the mechanics of it start to finish. It’s more a ‘we need a TIF’ rather than looking at what happens after a TIF is in place,” Ledew said.

Nass said he made little headway trying to draw attention to the Maine Revenue Services spreadsheet.

“If you look at the TIF statute and the way it’s been cobbled together over the years, it’s been changed in ways that don’t make sense. You can TIF a child care facility. I’m not opposed to child care but there’s a price,” he said.

“I found myself a committee of one,” Nass said. “People in small towns don’t have any sense of the costs of this,” he said. “People think there’s no cost to TIFs, that it’s easy to do ... But sheltering [valuation] is a cost to the communities that don’t get it. If you do TIF for a long time, there’s a fairly substantial tax shift.”

Economic development officials in Portland and Lewiston were contacted to discuss the tax shift. Both Gregory Mitchell in Portland and Lincoln Jeffers in Lewiston said they were aware of the tax shift phenomenon but they said it does not outweigh the benefits of TIFs. Furthermore, they discounted the assumption that TIFed projects would have gone forward without TIFs.

“That’s not been my experience,” said Gregory Mitchell.

“If there weren’t a TIF, some of these projects wouldn’t have gone for-

ward,” said Jeffers. “Without a TIF, our Wal-Mart distribution center would have happened somewhere else – like Connecticut.” **mt**

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Biggest tax shift 'losers'

Community	Cumulative TIFs awarded through 2005	Net loss in state subsidy 2005
Portland	\$100,070,629	\$389,658
Kennebunk	0	\$324,378
Cape Elizabeth	0	\$256,378
Biddeford	\$15,767,108	\$227,492
Brunswick	\$10,184,498	\$206,310
Lewiston	\$14,887,919	\$197,764
Cumberland	0	\$189,603
Yarmouth	\$6,736,802	\$176,543
Standish	0	\$140,463
Sanford	\$10,757,650	\$138,626

Biggest tax shift 'winners'

Community	Cumulative TIFs through 2005	Net gain in state subsidy 2005
Bath	\$246,511,468	\$1,693,485
Auburn	\$142,391,326	\$777,949
Veazie	\$104,027,060	\$735,926
Westbrook	\$114,338,909	\$590,212
Hollis	\$85,516,556	\$581,550
Millinocket	\$82,485,210	\$560,128
Rumford	\$83,812,842	\$502,362
Poland	\$71,048,132	\$441,218
Lincoln	\$62,936,520	\$426,289
Easton	\$51,082,500	\$359,439

People

Bangor police officers **Rob Angelo**, **Robert Hutchins**, **Timothy Shaw** and **Doug Smith** have earned bravery awards from two statewide police associations for risking their lives to save others. Shaw also was recognized for preventing a tragedy when he disarmed a gunman who had assaulted three people and were holding them hostage in a Bangor residence.

Former Lewiston City Administrator **James Bennett** has accepted the top municipal job for the city of Presque Isle, replacing **Thomas Stevens**, who has been hired a regional director for U.S.D.A. Rural Development program in northern Maine. Like Stevens, Bennett is a longtime manager in Maine. Most recently, he has been working as interim manager for the town of Sabattus.

Outspoken and colorful former Rumford Selectman **J. Eugene Boivin** died of cancer on January 30. He was 70. Boivin worked for the town as a firefighter for 30 years, retiring as chief in 1989, before running for public office. He received countless awards throughout his long career. He served on the town's charter commission and was known for his outspoken views and lobbying the Legislature on municipal issues.

Winslow town councilors have promoted **Jeffrey Fenlason** to police chief after he served in an acting capacity since late 2009, when **Richard Grindall** retired after 40 years with the town.

South Berwick Fire Chief **George Gorman** marked his 40th year in the job in February, earning praise from present and former firefighters who lauded his leadership skills and ability to get things done. Gorman, an Air Force veteran, has lived in South Berwick his entire life. He joined the department in 1966 and was promoted to chief in 1970.

Machais Town Manager **Betsy Fitzgerald** has accepted the job as Washington County manager. Fitzgerald was hired as Machais manager in 2006 after she worked as a code enforcement officer for the towns of Vassalboro and Benton.

Chelsea Town Manager **Carrie "Kay" Khalvati** resigned effective Janu-

ary 25 after serving since the fall of 2008. Her reasons were apparently based on personal choices, according to officials. A search committee will be used to find a new manager.

Florance Merrifield will retire as Hope town clerk on February 26, after serving as clerk and tax collector for 32 years. She was first elected in 1981 after working as deputy clerk for three years.

A Northfield, Massachusetts police sergeant has been named the new Lincoln police chief by a unanimous vote of the town council in early February. **Scott Minckler** has 30 years of experience in law enforcement. Minckler, who will start his new job on March 1, replaces former Chief **William Flagg**, who resigned last August to seek a new career in teaching. 

Staff Change at MMA

By Christopher G. Lockwood, Executive Director

As readers will note, this issue of the *Maine Townsman* contains a farewell column from longtime editor and MMA staff member Michael Starn. During his thirty-five year career at MMA, Michael oversaw the production of over 400 issues of the *Maine Townsman* and had lead responsibility for organizing over 30 MMA annual conventions, in addition to a wide array of other functions such as handling media calls, fielding LD 1 inquiries, and developing citizen education programs regarding municipal government. We thank Michael for his dedicated service to MMA and our members and wish him the very best.

Looking ahead, I am pleased to announce Eric Conrad has accepted our offer to join MMA as the Director of Communication and Educational Services.

Eric is an experienced executive with an extensive background in the news media. Having served as Executive Editor of the *Kennebec Journal* and *Morning Sentinel* (2007 – 2009) and as Managing Editor, Sports Editor and City Editor of the *Portland Press Herald/Maine Sunday Telegram* (1995 – 2006), Eric is very conversant with Maine issues.

Most recently Eric has been serving as Director of Marketing & Communications at MaineGeneral Health, working extensively on the proposed construction of a new hospital facility to serve the greater Augusta/Water-ville region.

Eric graduated *cum laude* from Shippensburg University of Pennsylvania with a major in communications-journalism. He attended the University of Maryland as a Fellow in the Knight Center for Specialized Journalism program and is a graduate of the Maine Development Foundation's "Leadership Maine" class of 2005.

We look forward to having Eric begin his work at MMA on Monday, March 1.



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tel: 207-512-3305

e-mail: Stephanie.Fecteau@mainepers.org

www.mainestart.org

Biddeford: The city has issued a violation notice to a property owner whose second-story balcony collapsed in late December, injuring six people. The owner had not sought a permit before building the structure. An engineer has opined that the construction flaw that caused the destruction likely would not have been noticed by code officials.

Bridgton: Selectmen have changed their minds and will not hold a straw vote at town meeting this year regarding whether to impose user fees on non-profits in lieu of property taxation. The board cited the strict state regulations regarding assessing fees on tax-exempt properties for reversing its earlier decision. The board has cut the proposed municipal budget by \$423,000, but the total is still slightly higher than the town's LD 1 limit. The town expects to lose \$700,000 in revenue in the new fiscal year.

Columbia Falls: Special town meeting voters on January 13 rejected a request to spend up to \$10,000 for a full audit of the town's financial books. The vote, 53-3, was prompted by a citizen petition after some residents alleged they were unable to get copies of public documents. Selectmen agreed to allow residents to meet with the town auditor, along with the board, when the fiscal year 2009 audit begins.

Jackson: Residents voted 111-75 during a special town meeting February 6 to approve an ordinance placing tight restrictions on development of industrial wind farms. Among the rules under the new ordinance is a ban on erecting wind turbines that stand 400 feet or higher within a mile of a private residence. Some residents argued the ordinance was too restrictive and complained about the "Not in My Backyard" attitude of some property owners in this rural Waldo County town of about 550.

Jonesport: A Maine Revenue Services staffer reportedly called tax increment financing deals "corporate welfare" during a meeting with selectmen in mid-January. Selectmen in the Washington County town have approved a \$10 million wind farm proposal. The developers of the project have not sought a TIF, thus far.

Lincoln: In a decision released in

early February, a Superior Court justice ruled the town's Board of Appeals was right in refusing to hear an appeal from the group, Friends of Lincoln Lakes, saying the group did not have standing to oppose the planning board's approval in December of a \$130 million wind farm project on Rollins Mountain. Justice William Anderson blamed the group itself for refusing to identify its legal organization to municipal officials and for making irrelevant arguments in trying to sideline the project.

Naples: Selectmen deadlocked in January over whether to join a seven-town effort to essentially develop one regional comprehensive plan for the Greater Naples region in western Maine. Naples would be asked to pay \$3,500 toward the \$200,000 project, which would be funded mostly by grants. Naples is the only town of the seven balking at the idea, with one selectmen predicting all seven towns would never agree to agree on anything. The other towns involved all have endorsed the idea by either voting to fund their portion of the effort

or send it to town meeting for a vote. The six towns are: Bridgton, Casco, Denmark, Harrison, Raymond and Sebago.

Old Orchard Beach: The town has been recognized by the Federal Emergency Management Administration for its longtime flood mitigation efforts. OOB received the highest award given under FEMA's Community Rating System program, of which the town has been a member since 1993.

Saco: The planning board wants a review of the significance of buildings that will abut or surround a proposed new CVS pharmacy. The board decided in late January that the company's permit application was incomplete without the review.

Wells: Selectmen will form a committee, which will include residents, to study options for a new public works building. The proposed project is the town's first capital improvement priority, town officials said in January. A new facility is projected to cost in the range of \$3 million. The town has saved \$300,000 toward the eventual cost of the new building. 

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2010 MMA & Affiliate Training Calendar

Group	Workshop	Location	Date
MARCH			
MTCMA	Interchange	Orono-Black Bear Inn	3/5
MMA	Technology Conf.	Augusta Civic Center	3/11
MMA	PB/BOA	Augusta-MMA	3/16
MBOIA	Member Mtg	Gray-Cole Farms	3/18
MMTCTA	Tax Liens	Portland-Keeley's	3/18
MMA	PB/BOA	Bangor-Spectacular Events	3/23
MMA	Parliamentary Proc.	Augusta-MMA	3/23
MMTCTA	Tax Liens	Houlton-Shiretown Motor Inn	3/25
MFCA	Membership Mtg	Northport-Point Lookout	3/25
MFPSC	Blaine House Conf.	Northport-Point Lookout	3/26,27
APRIL			
MCAPWA	Spring Meeting	Waterville-Elks Lodge	4/1
MAAO	BAR Workshop	Augusta-MMA	4/7
MMA	PB/BOA	Houlton-Shiretown Motor Inn	4/8
MMA	Grant Funding	Augusta-MMA	4/8
MTCCA	New Clerks	Bangor-Hollywood Slots Hotel	4/12
MMA	Elected Officials	Houlton-Shiretown Motor Inn	4/13
MWDA	Basic GA	East Millinocket-Town Hall	4/15
MACA	Ann. Mtg/Training	Bangor-Hollywood Slots Hotel	4/16,17
MMA	Basic Budgeting	Augusta-MMA	4/16
MCAPWA	Sup. Leadership I	Bangor-TBD	4/20,21
MWWCA	Spring Conference	Bangor-Hollywood Slots Hotel	4/23
MMTCTA	Gov. Acct. I	Augusta-MMA	4/29-30
MAY			
MBOIA	Spring Class	Lewiston-Ramada Inn	5/3,4
MTCCA	Vital Statistics	Augusta-MMA	5/5
MMTCTA	Gov. Acct. II	Augusta-MMA	5/7
MMA	Elected Officials	Machias-UM at Machias	5/11
MCAPWA	Sup. Leadership II	Bangor-Jeff's Catering	5/11,12
MTCCA	Voter Registration	Augusta-MMA	5/13
MMTCTA	Annual Conf.	OOB-Captain's Galley	5/14
MWDA	Spring Conf.	Bangor-Hollywood Slots Hotel	5/17,18
MTCCA	Records Mgmt.	Augusta-MMA	5/25
JUNE			
MCAPWA	Highway Congress	Skowhegan Fairgrounds	6/3
MMA	Elected Officials	Augusta-MMA	6/16
MMA	Elected Officials	Saco-Holiday Inn Express	6/17
MMTCTA	Basic Excise	Bangor-United Technologies Ctr.	6/17
MBOIA	Membership Mtg	Scarborough-Dunstan School	6/17
MMA	PB/BOA	Machias-UM at Machias	6/24
JULY			
MTCCA	Municipal Law	Waterville-Elks Lodge	7/14
MMTCTA	Payroll & 1099	Augusta-MMA	7/20

Group	Workshop	Location	Date
MFCA	Membership Mtg	Camden Snow Bowl	7/22
AUGUST			
MTCMA	Institute	Northport-Point Lookout	8/18-20
MTCCA	Vital Records	Houlton-Shiretown Motor Inn	8/23
MTCCA	New Clerks	(from MMA Bldg-webinar)	8/24
SEPTEMBER			
MSFFF	Annual Convention	Presque Isle	9/10-13
MWWCA	Fall Convention	Northport-Point Lookout	9/15-17
MBOIA	Annual Meeting	Gray-Spring Meadows	9/16
MMA	PB/BOA	Bethel-The Bethel Inn	9/21
MAAO	Fall Conference	Sebasco Harbor Resort	9/22-24
MTCCA	Title 21-A	TBD	TBD
OCTOBER			
MMA	Annual Convention	Augusta Civic Center	10/12,13
MFCA	Annual Meeting	TBD	TBD
MFCA	Annual Conference	TBD	TBD
NOVEMBER			
MMTCTA	Municipal Law	Augusta-MMA	11/10
MMA	PB/BOA	Saco-Holiday Inn Express	11/18
MMA	PB/BOA	Dover-Foxcroft-Town Office	11/29
MMA	Elected Officials	Rockport-Lighthouse Museum	11/30
DECEMBER			
MMA	Elected Officials	Bangor-Spectacular Events	12/6
MMA	Elected Officials	Farmington-Franklin Memorial	12/7
MBOIA	Membership Mtg	Brunswick-China Rose	12/16

KEY TO GROUPS

MMA	Maine Municipal Association
MTCCA	Maine Town and City Clerks Association
MACA	Maine Animal Control Association
MTCMA	Maine Town & City Management Association
MCAPWA	Maine Chapter of American Public Works Association
MWDA	Maine Welfare Directors Association
MCDA	Maine Community Development Association
MWWCA	Maine WasteWater Control Association
MFCA	Maine Fire Chiefs Association
MAAO	Maine Association of Assessing Officers
MMTCTA	Maine Municipal Tax Collectors & Treasurers Association
MBOIA	Maine Building Officials & Inspectors Association
MSFFF	Maine State Federation of Firefighters, Inc.
MALEM	Maine Association of Local Emergency Managers
MFPSC	Maine Fire Protection Services Commission
MEMA	Maine Emergency Management Agency

For more detailed descriptions,
please visit the MMA website: www.memun.org

Municipal Bulletin Board

For more information on the following MMA and Affiliate Group workshops, go to the MMA website at www.memun.org or contact MMA's Educational & Affiliate Services office at 1-800-452-8786.

PLANNING/APEALS BOARDS

Throughout 2010, Maine Municipal Association will again be offering its workshop for members of local planning boards and zoning boards of appeal. Next month, the workshop will be offered twice, on March 16 in Augusta at the MMA building on March 23 in Bangor at Spectacular Events. In total, the workshop will be presented seven times at different locations during the year.

As a basic introduction to the various legal rules governing local land use decision-making, this workshop covers jurisdictional issues, conflict of interest, public notice requirements, appeals, variances, reconsideration, site visits, use of email, recordkeeping, deadlines, standing, evidence, and more.

MANAGERS INTERCHANGE

The 31st Annual Statewide Manager Interchange, sponsored by the Maine Town & City Management Association, will be held March 5 at the Black Bear Inn in Orono.

An exciting array of sessions await attendees covering such subjects as leadership, assessing, ethics, Right-to-Know, and organizational changes.

TECHNOLOGY CONFERENCE

On March 11, MMA and the Maine GIS User Group will be conducting the 2010 Technology Conference at the Augusta Civic Center.

PARLIAMENTARY PROCEDURES

A Parliamentary Procedures workshop will be held on March 23 at the MMA building in Augusta.

TAX LIEN PROCEDURES

The Maine Municipal Tax Collectors & Treasurers Association (MMTCTA) is sponsoring a "Tax Lien Procedures" workshop on March 18 in Portland and on March 25 in Houlton.

This workshop focuses on the tax lien process and procedures. Attendees will receive up-to-date information and forms. Instructors are Gilberte Mayo, Lincoln treasurer (in Houlton), and Paul Labrecque, Lewiston tax collector (in Portland).

The registration fee is \$50 for MMTCTA members and \$60 for non-members.

FIRST RESPONDERS CONFERENCE

The 7th Annual Blaine House Conference for First Responders will be held March 26-27 at Point Lookout Resort in Northport.

This two-day conference includes exhibitors and will have sessions on fire service leadership with special presentations by John Salka of the New York City Fire Department and Howard Cross

from Shaftsbury, Vermont.

ELECTED OFFICIALS WORKSHOP

Maine Municipal Association has expanded its offerings of the popular Elected Officials Workshop. In 2010, the workshop will be conducted at seven locations, starting on April 13 in Houlton at the Shiretown Motor Inn.

This workshop is for selectmen and councilors. It is a "must" for newly elected officials. Veteran elected officials will benefit as well. Stay abreast of your rapidly changing responsibilities as an elected municipal official. Network with other selectmen and councilors from other parts of the state.

For more information, go to the MMA website at www.memun.org or contact MMA's Educational & Affiliate Services office at 1-800-452-8786. 



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ELECTIONS & THE 250' RULE

Question: We've heard about a "250-foot rule" in reference to political campaigning on election day. What's this about?

Answer: On election day, a person is prohibited from influencing or attempting to influence another person's vote within the voting place and on public property within 250 feet of the entrance to the voting place (see 21-A M.R.S.A. §682). ("Voting place" means the building in which voting is taking place, see 21-A M.R.S.A. § 1(49).) This means candidates may attend the voting place and may orally communicate with voters (*i.e.*, "meet and greet" them) but may not attempt to influence their vote or state the name of the office sought or request their vote.

The ban does not apply to poll-watchers, who may remain at the voting place outside the guardrail as long as they do not attempt to influence voters or interfere with their free passage. Nor does it prohibit media representatives from conducting exit polls as long as they do not solicit voters until after they have voted and do not orally communicate with voters in a way that influences their vote. But party workers and others who remain at the voting place outside the guardrail may not use cell phones, pagers or similar devices to audibly communicate in a way that may influence voters.

The law also prohibits the display of advertising materials such as signs or posters, the operation of advertising media such as audio or video devices, and the distribution of campaign materials such as literature or buttons on any public property within 250 feet of the entrance to either the voting place or the building in which the voter registrar's office is located. ("Public property" does *not* include public easements or rights-of-way over private property.) The ban does not apply, however, to advertising on motor vehicles traveling to and from the voting place for the purpose of voting or to persons who are wearing a campaign button and who are at the polls solely for the purpose of voting as long as the longest dimension of the button does not exceed three inches.

A violation of § 682 is a Class E crime. Suspected violators should be promptly warned by election officials, and if a violation continues, law enforcement officials should be contacted immediately. If a person attempts to influence voters or interfere with their free passage, the warden (or in a local election, the moderator) must have that person removed from the voting place. Again, if necessary, law enforcement officials should be contacted immediately.

A similar 250-foot rule against political advertising applies during the 45 days prior to an election, during the hours when the clerk's office is open and may be conducting absentee voting (see 21-A M.R.S.A. § 753-B(8)).

For a sample guide to candidates on all of this, see MMA's *Town Meetings & Elections Manual*, available free to members at www.memun.org. (By R.P.F.)

MAXIMUM INTEREST RATE FOR 2010 DELINQUENT TAXES: 7%

The State Treasurer has established 7% as the maximum interest rate that may be set for delinquent taxes committed during calendar year 2010.

VOTER PETITIONS: A PRIMER

The general right of the people to petition their government is rooted in both the Maine and U.S. Constitutions (see Me. Const. art. I, § 15 and U.S. Const. amend. I, respectively). But at the local level this right is given definition by three important Maine statutes, all in Title 30-A.

Open town meeting petitions. Title 30-A M.R.S.A. § 2522 states, "On the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case

Municipal Calendar

BY MARCH 1 – Solid Waste Municipal Reporting forms are due back to the State Planning Office, State House Station #38, Augusta, ME 04333. [38 MRSA §2133(7)]

BEFORE TOWN MEETING – Selectmen must have a warrant posted at least 7 days before town meeting and have a constable or designated resident make return (30-A M.R.S.A. §2523). If adoption of an ordinance is proposed, make sure of compliance with 30-A M.R.S.A. §3002. Send copy of town report to the following: MAINE MUNICIPAL ASSOCIATION, State Tax Assessor, State Auditor, State Department of Transportation, and State Librarian.

— Town meeting voter registration and voting list requirements. The registrar shall accept the registration and enrollment of voters prior to the municipal election according to the time schedule prescribed by 21-A M.R.S.A. §122 unless changed by municipal officers. According to same statute, the registrar shall also accept registrations from those who appear in person on election day.

— Copies of annual report are to be deposited in municipal office or convenient place of business for distribution to voters at least 3 days prior to the annual meeting (30-A M.R.S.A. §2801). After election, town officers shall be sworn for each office separately. Notice of appointments must be made to town clerk for recording (30-A M.R.S.A. §2526). Notice of choice of treasurer must be sent to Treasurer of State (30-A M.R.S.A. §5602).

— Check 30-A M.R.S.A. §5823 for audits, and §2801 for Town Reports.

— See 21-A M.R.S.A. §101 for deadline for appointing Registrar of Voters. Note that municipal officers must notify the Secretary of State of the name of the appointee within 10 days after registrar is appointed and sworn.

Assessors – Before making an assessment, the assessors may notify all persons liable to taxation in the municipality to bring in their lists of taxable property (36 M.R.S.A. §706).

APRIL 1 – Municipal assessments are controlled by this date (36 M.R.S.A. §502).

less than 10, the municipal officers [selectmen or councilors] shall either insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration.”

In other words, under § 2522 the municipal officers have the choice of when the petition article will be voted on – either at a special town meeting called within 60 days for this purpose or at the next town meeting called for any purpose (which may be the next annual town meeting). This is so even if the petition demands a special meeting, unless the municipal officers’ refusal to call one is “unreasonable” (see below).

Secret ballot referendum petitions. Title 30-A M.R.S.A. § 2528(5) states, “[O]n the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration.”

Again, under § 2528(5) the municipal officers have the choice of when the petition article will be voted on – either at a special election called for this purpose or at the next election called for any purpose. And again, this is so even if the petition demands a special election, unless the municipal officers’ refusal to call one is “unreasonable.” Absent, though, is any requirement that a special election be called within 60 days. This is perhaps an acknowledgment that referendum elections entail considerably more preparation and expense than open town meetings.

Also noteworthy is that in most cases a referendum election is possible only if a town has accepted the secret ballot method of voting under § 2528. A referendum petition is subject to the same 45-day filing requirement as nomination papers.

Petitions to a notary public (“unreasonable refusal”). Title 30-A M.R.S.A. § 2521(4) states, “If the selectmen unreasonably refuse to call a town meeting, a notary public may call the meeting on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10.”

Under § 2521(4) if petitioners believe the selectmen have unreasonably refused to call a meeting, they may peti-

tion a notary public to call the meeting. The notary has no discretion not to as long as the petition is directed to the notary and bears the requisite number of signatures.

The legality of a notary-called meeting, and the legal effect of any action taken, depend on whether the selectmen were first petitioned to call a meeting and whether their refusal to do so was “unreasonable.” The concept of “unreasonable refusal” is defined by case law rather than statute and will be discussed here in greater detail next month.

Here are some other fundamentals of voter petitions under Title 30-A:

No particular form or wording is required, although a petition must include a proposed article or articles. A petition is not required to cite a stat-

ute or specify the method of voting. A petition may be freely circulated. Any registered Maine voter may circulate a petition, but only the signatures of local voters may be counted. A circulator is not required to witness signatures or sign any statement. A petition may be submitted to either the municipal officers or the clerk. Once submitted, a petition is a public record, and neither the petition nor any signatures may be withdrawn.

Voters in municipalities with charters should know that a charter may contain different provisions than those discussed above, including significant limitations on the right to petition.

For more on voter petitions, see MMA’s *Town Meetings & Elections Manual*, available to members online at www.memun.org. (By R.P.F.) [MEM](http://www.memun.org)

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