

January, 2010

# maine townsman

The Magazine of the Maine Municipal Association

## Municipalities Feel Pinch of Declining State Revenues



### IN THIS ISSUE:

EPS Model • Budget Shortfalls  
Risk Manager • ARRA: A Year Later

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#### Magazine Staff:

Michael Starn, Editor  
[mstarn@memun.org](mailto:mstarn@memun.org)

Valarie Pomerleau, Circulation Manager  
Jaime Clark, Graphic Design

**MMA website:** [www.memun.org](http://www.memun.org)

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## contents

<b>EPS Model</b>	<b>5</b>
Essential Programs and Services (EPS) is the school budgeting and education funding model adopted by the state legislature in 2005 as part of the landmark LD 1 legislation that was supposed to move the state's share of the cost of K-12 education to 55%. Although the state has never gotten to the 55% funding level, EPS continues to serve as the standard school spending model and as the way to determine the state contribution to K-12 education costs.	
<b>Budget Shortfalls</b>	<b>11</b>
By now, just about every municipal official has heard about the proposed state budget cuts to State-Municipal Revenue Sharing and other municipal assistance programs. While the state's budget problems have been well-publicized for months, the budget issues that municipalities and schools are facing this year and next are less visible and less understood. Townsman editor Michael Starn interviewed town managers from different regions of the state to get a "front-line" look at the financial difficulties that municipalities are confronting.	
<b>Risk Manager</b>	<b>15</b>
The winter issue of the Municipal Risk Manager looks at the recent changes to Maine Workers Compensation laws relating to a cancer presumption for firefighters and also provides tips for reducing occupational accidents.	
<b>A Year Later</b>	<b>19</b>
The American Recovery and Reinvestment Act (ARRA), also known as the federal stimulus act, was enacted almost a year ago. Nearly \$800 billion was promised by the federal government to stimulate the economy and lift the country out of recession. What's the report card on ARRA? How has Maine fared? These questions and others are answered in this ARRA update by freelance writer Doug Rooks.	
<b>People</b>	<b>26</b>
<b>News</b>	<b>27</b>
<b>Municipal Bulletin Board</b>	<b>28</b>
<b>Legal</b>	<b>29</b>



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# The EPS Model and School Spending

By Douglas Rooks

Six years after it was adopted by the Legislature as a guide to school spending, the Essential Programs and Services (EPS) model remains at the center of debates over state and local educational policy – though its purpose has changed significantly since it was first adopted.

In 2005, confronted with implementing the successful school funding referendum of the previous year that required 55% state funding of General Purpose Aid to Education (GPA), the Legislature turned to the fledgling EPS system for answers to the inevitable question: 55% of what? What school districts spent in the previous year, or some other figure?

Lawmakers decided that EPS would be the spending standard for all school districts. In the future, the levels specified by EPS, based on standard calculations of class sizes, number of students per administrator, and bus route mileage – along with many other considerations – would be the school budget target, with separate approval required, and no state funds available, for any local spending beyond the target.

In the early years, the unfamiliarity of EPS calculations contrasted with incremental (year-to-year) budgeting that is commonly used for municipal and school budgets, causing a good deal of confusion. Even superintendents occasionally were stumped for answers at the annual school budget meeting. Since then, EPS has become more familiar, even as it continues to be reshaped in frequent tug-of-wars at the State House.

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*Douglas Rooks is a freelance writer from West Gardiner and regular contributor to the Townsman, [drooks@tds.net](mailto:drooks@tds.net)*

In 2007, controversy attended the enactment of mandated consolidation, contained in the state budget, which required that all school units with fewer than 2,500 students join with other units in a formal administrative merger or face financial penalties in the form of withheld state aid. The EPS cost allocations for administrative support, transportation, special education, and facilities maintenance were reduced by the new law, as part of Gov. Baldacci's decision to reduce projected GPA allotments by \$36 million. In the first year, superintendent's office support was cut in half, while the other three reimbursement categories were reduced by 5%. The theory was that local districts would be able to match the state reduction through consolidation efficiencies, lowering overall educational outlays by nearly \$70 million.

## PAYMENT CRUNCH

The mandated consolidation law was prompted by the state's attempted "ramp up" to 55% GPA funding over four years, which initially provided many more state education dollars per biennium into school budgets that would have been the case without the Question 1A initiative.

However, just two years into the "ramp up", it was clear that the state was struggling to find the additional money to fulfill its 55% obligation. Even before the massive recession that has now reduced state contributions both in percentage and in absolute terms, state funding difficulties for education were evident. Since peaking at almost \$978 million in FY 08, state funding (including curtailments) through GPA have now been reduced to \$852 million for the FY 11 fiscal year (see Table on page 6).

Geoff Herman, MMA's director of state and federal relations, estimates that state payments to GPA could fall to just over 43% for the 2011-12 biennium, matching the low point following the early 1990s recession. That situation helped set off a decade of debate over property taxes, highlighted by the successful MMA-supported Question 1A initiative in 2004 and three unsuccessful statewide referendums to cap taxes, spending or both.

Interestingly, Herman says that, compared to total school spending, rather than EPS, the state share would be about 42%, not greatly different than the EPS proportion. When the EPS model was first developed, the gap between the model and what many school units were actually spending for education was much more pronounced.

Jim Rier, the Department of Education's director of management information systems, says the figures are accurate – and are similar because school districts have already cut spending to track closer to the EPS guidelines, a big change from recent years, when about three-quarters of school budgets were above EPS levels. Many of those school units that were spending below EPS have also closed the gap on the other end, with a significant infusion of GPA since 2005.

Herman said that MMA is concerned about maintaining the integrity of the EPS system, and ensuring that in the quest for savings, the state doesn't modify the standards to justify lower payment levels which – unlike the current fluctuations in revenue – might be permanent.

Rier said he doesn't believe that's happening. The state did, for instance, suggest changing the class size stan-

dards for secondary schools from a 14-1 student-teacher ratio to 15-1, but withdrew the idea after local protests. Rier notes that Maine already has one of the lowest students-per-teacher ratios of any state, which was why the change seemed feasible.

Rier concedes that the first-year implementation of the consolidation law might have been difficult, and that actual savings in administration, transportation, and other areas were hard to obtain immediately. "But by this time, adjustments should be possible, and school districts know what's expected," he said.

He also points out that the original consolidation law anticipated continued reductions in the three program areas – an additional 2 ½% in the following biennium, for instance. That requirement has now been shelved, and allocations remain 5% below the original EPS level, which is adjusted annually to reflect changes in state-wide costs. It is important to note that with Maine's declining student enrollment, the natural growth of the EPS model has been very small since EPS was enacted (projected to average less than 2% annually between FY 06 and FY 13 – see Table below).

### LOCAL PERSPECTIVE

From the local perspective, the picture on EPS is mixed, with views on the system often tracking its effects on a particular municipality or school district.

William Shuttleworth, superintendent of RSU 1 in Bath, the first new consolidated district, says that, "The intent of EPS is really good. We need a thoughtful and equitable model for school finance that can be applied statewide."

With that said, though, he thinks there are issues with the system that continue to raise concern.

One involves a factor that has always been part of the state funding formula, which attempts to make up for low property values by targeting more aid to those "property poor" communities. The basis of the formula has not entirely changed – it combines the ability to raise dollars for education through local tax effort with the number of students educated in each district. EPS deals primarily with the per pupil allocation, although it also installed a new method for construction-related debt.

While communities with low property values get more state aid – total

state support varies from as little a 10% to more than 80% of local budgets – high-value communities can lose aid as real estate prices spike. Declining school enrollment is the other key factor that reduces state funding to a school district under EPS.

This is a particular problem for coastal communities like those in the Bath area, Shuttleworth said. "Local incomes don't go up because property values happen to rise," he said. "It can put a real burden on taxpayers when the year-to-year (valuation) shifts are large, as they have been lately."

### RURAL DILEMMAS

Rural communities also often feel disadvantaged by EPS. Since it sets payments based on class sizes, it tends to work against small schools, which almost necessarily have smaller classes.

"There was a big shift in state support toward the cities and larger towns," said Clint Deschene, town manager in Hermon, of the early effects of EPS.

"They're also the ones that got a free pass on consolidation." Hermon itself has not seen its state share vary dramatically, but many of the small towns in the area have struggled, De-

## Education Funding Under EPS Model

Fiscal Yr	100% EPS	% Grwth	Required State Funding Under LD 1	Required Local Funding Under LD 1	Actual State Funding	Minimum EPS Local Funding	% of Actual State Funding to 100% EPS
FY 06	\$1,786,037,540		\$836,115,966	\$949,921,574	\$ 836,115,966	\$949,921,574	46.8%
FY 07	\$1,829,788,109	2.4%	\$914,098,222	\$915,689,887	\$ 914,098,222	\$915,689,887	50.0%
FY 08	\$1,895,210,824	3.6%	\$977,958,385	\$917,252,439	\$ 977,958,385	\$917,252,439	51.6%
FY 09	\$1,860,836,514	-1.8%	\$983,528,141	\$877,308,373	\$ 956,481,492	\$904,355,022	51.4%
FY 10	\$1,922,806,343	3.3%	\$1,057,543,489	\$865,262,854	\$909,273,269*	\$958,936,958	47.3%
FY 11	\$1,949,193,944	1.4%	\$1,072,056,669	\$877,137,275	\$852,254,490*	\$1,038,180,342	43.7%
FY 12	\$1,990,183,397	2.1%	\$1,094,600,868	\$895,582,529	\$ 852,254,490	\$1,137,928,907	42.8%
FY 13	\$2,029,987,065	2.0%	\$1,116,492,886	\$913,494,179	\$ 852,254,490	\$1,177,732,575	42.0%

The LD1 ramp up to 55% State funding of the EPS model was to have concluded with the FY 09 State budget. FY 10 through FY 13 "required" state funding amounts are based on a continuation of the 55% commitment that was contained in LD 1. The "Actual State Funding" for FY 2010 and FY 2011 are the amounts appropriated in the biennial state budget adjusted downward by the Governor's 11/20/09 "curtailment order". "Actuals" for the FY 11 through FY 13 budgets are estimates based on information provided by the Department of Education. During FY 10 and FY 11, federal stimulus money was used to offset state/local education costs. That funding is not continued in the FY 12 and FY 13 estimates.

\*Does not include the federal stimulus money which amounted to \$54,596,116 in FY 10 and \$58,759,112 in FY 11. The federal dollars added to the State and Local amounts for these fiscal years equals the 100% EPS.

scheme said.

Some of the difficulties were reflected in negotiations for possible consolidation that Hermon had with its neighboring towns of Carmel and Levant (SAD 23), which currently send most of their students under tuition agreements to Hermon High School, where they make up about half the student population of 600.

While debt service issues are dealt with separately under EPS, school maintenance is part of the model that some local officials have a problem with. Under EPS, there's a standard figure for building maintenance regardless of age and condition of the school – something William Shuttleworth said is unrealistic. "I've got a high school building that's basically a heat sieve. We're really struggling to provide maintenance."

Another EPS-related issue that provided obstacles in the Hermon-area consolidation talks was teacher salaries. EPS sets teacher pay standards according to labor markets, and the gap between Hermon and SAD 23 is considerable, Deschene said. Implementation of a separate minimum teacher salary requirement of \$30,000 starting pay has also created disparities, he said, as districts that had not met the requirement get extra state support, while those that already managed to achieve the minimum figure do not.

At the moment, Hermon and SAD 23 remain on the list of unapproved school administrative units (SAUs), which have neither consolidated nor been exempted by the legislation or by the Commissioner of Education.

Administrative support received the biggest cut under consolidation, and even some consolidating districts felt the pinch, William Shuttleworth said. Cutting back to \$210 per student was tough even though RSU 1 eliminated a central office and most of its staffing.

"If you tried this in private industry, they'd laugh at you," he said. RSU 1 has managed to stick to the allocation, but only because "the superintendent works 60 to 70 hours a week," he said.

### A SATISFIED CUSTOMER

One of the few towns or school districts that seems content with EPS in all its aspects is Falmouth, where Finance Director John McNaughton said EPS has closely matched the town's

educational priorities from the beginning.

As one of the few communities that has seen steadily increasing enrollment – overall, Maine has dropped from a high of 235,000 students to fewer than 200,000 over three decades – Falmouth has seen its state funding increase proportionately. System administration at just \$200 a pupil was also not a problem because that's where Falmouth has been all along, McNaughton said.

"We've been recognized as an efficient school district for a long time," he said, and it was designated a "high performing district" under the consolidation law, exempt from its requirements.

Falmouth practices a lot of sharing between the municipal and school operations. The town takes on facilities and vehicle maintenance, insurance, and investment management for the schools. The One Falmouth Committee continues to examine new ideas for further cooperation, McNaughton said.

"Falmouth has always been an education-oriented community," he said. "Parents are really involved in the school." Satisfaction with the schools is so high that voters turned down a highly touted consolidation plan with SAD 51 (Cumberland and North Yarmouth) largely out of concern that the schools might change.

### ATHLETICS AND COMPUTERS

There are a number of specific issues that often come up in discussion of EPS. One is extracurricular activities and athletics, which are funded at 10% of anticipated costs – just as they were in the old school funding formula.

To some observers, that makes sense. Athletic programs, which are often very popular in the community, have always been supported locally, not primarily by the state.

But in the era of EPS, where voters tend to expect school boards to spend along state-approved lines, this separation may be harder to maintain.

Hermon has managed to maintain a level tax rate for six years, Clint Deschene said, but it's getting harder all the time.

When the subject of school budget cuts came up, an obvious place to look seemed to be the locally supported athletics teams, "but we were told in no uncertain terms not to go there by the community," he said.

Shuttleworth also thinks there's a good case for increased state support of extracurricular activities under EPS. "Participation in athletics correlates very strongly with achievement in school," he said. "We ought to be encouraging it much more than we do."

Another field where superintendents often find the state allocation inadequate is information technology, or IT. Hermon's school budget, lean in

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other areas, is heavier on technology spending, but appearances are deceiving.

“Our program is not just for the school, but for municipal government, businesses and the community,” Deschene said. In the 1990s, the town offered free dial-up Internet service to all residents. “That may not sound like a big deal anymore, but it was back then,” he said. Municipal and school departments share a common phone and computer system, with extensions to the community, an information nexus that has helped attract new businesses and families to town. “It’s helped us grow when many other communities in our region were shrinking,” he said.

Shuttleworth said that he and other superintendents were not pleased by the way the Department of Education handled an expansion of the laptop computer program to high schools this year. “The commissioner said she ‘found’ the money, but what they did was require us to allocate our entire IT budget to the program,” he said. “I have about \$10 per kid left after that.”

Participation in the laptop program is voluntary, and slightly over half

of high schools are participating, with several others cutting their own deals with computer suppliers.

### CUTBACKS LOOMING

While EPS is still a major topic for school and municipal officials, few of them can discuss school finance without bringing up the looming shortfalls in state support that, at least at the moment, seem due to become dramatically worse once federal stimulus aid expires.

The consensus seems to be that most districts can deal with the \$37 million curtailment ordered by Gov. Baldacci for the current school year, but that next year will be far more difficult.

“We’re just starting to build our budgets now, and we don’t like what we’re seeing,” Shuttleworth said. “There’s no way we can meet the projected numbers without serious layoffs and program cuts.”

Clint Deschene said that the shortfall could be so serious that Hermon might have to raise its tax rate by 20% just to keep its existing programs. Asked if he thought taxpayers could

afford such an increase, he said, “No.”

### DIFFERENT PURPOSES

The continuing debate over EPS reflects some of the tensions in the original model, back to when it was simply a set of guidelines. On one hand, EPS simply reflects existing practices in the state, and standardizes such measures as class size and spending on maintenance and transportation for the typical district. Yet it also represents the desire of state officials and educators to promote certain spending priorities over others. If the state did, for instance, decide to increase allocations for information technology, it would promote more computer use but perhaps crimp textbook purchases.

The changes contained in the consolidation bill were dramatic and, to some, heavy-handed, but EPS is supposed to continue to evolve. Each year, one-third of the different lines in EPS are reviewed by the Maine Education Policy Research Institute (MEPRI), with changes recommended for possible adoption by the Legislature.

In that sense, EPS will always be a work in progress. **mt**

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# Coping With Budget Shortfalls

By Michael Starn, Editor

Getting out of the gate early and communicating the municipal impacts of proposed state budget cuts to legislators and the public will be extremely important for municipal officials as they enter the municipal budgeting season. At the same time, it would also be prudent for local officials to realistically size up their municipal budget situation and start planning for the very difficult budget decisions that lie ahead.

How state budget decisions affect municipal budgets is not very well understood by most citizens. State programs like revenue sharing, local road assistance, and General Assistance, Tree Growth, and Homestead reimbursements are a mystery to most people unless they are directly involved in town government or participate in the program.

Proposed cutbacks to the State-Municipal Revenue Sharing program alone are \$27 million for FY 10 and 11, on top of the \$44 million taken out last year by the legislature when the FY 10-11 state budget was adopted. The new cuts take \$12 out of FY 10 (the current year) and another \$15 million out next year (FY 11). Together, they add up to a 26% reduction in funding this year, and a 33% reduction next year. Compounding the damage of the budget cuts are lower state sales and income tax collections which are the basis for the revenue sharing distribution.

Explaining how revenue sharing affects local budgets is a challenge for municipal officials. Most citizens don't understand the program and for many legislators these budget cuts are viewed as municipalities just "sharing the pain". The reality, however, is that

revenue sharing is used by municipalities to lower property taxes. Municipalities are required by state law to use revenue sharing dollars to reduce the property tax commitment before it is levied. Cutbacks to the revenue sharing program force municipal officials to either increase property taxes, find alternative non-tax revenues, or reduce services.

Legislators and citizens need to understand that municipal budgets and property taxpayers have a limited capacity to deal with these cutbacks to municipal programs. The more they understand this connection, the more effective municipal officials will be in bringing a sharper focus to the tax shifting that is taking place under the pretense of 'making the tough decisions'.

A public hearing on Governor Baldacci's proposed supplemental budget was held on January 8 at the State House. MMA staff and municipal officials attended the hearing to voice their concerns about the proposed cutbacks to municipal assistance programs.

The battle has just begun for municipal officials who must be vigilant in their ongoing communication efforts to explain the local impact of state budget decisions.

To get a clearer picture of the municipal reaction to the proposed budget cuts, the Townsman conducted several phone interviews with town managers in various parts of the state.

## SMALL TOWNS UP NORTH

Candis Nevers has been a town manager in small towns in southern Aroostook County for over 30 years. She currently is a shared manager by

the towns of Smyrna and Merrill.

She can't remember things ever being any worse than they are now and says that the proposed cutbacks are "devastating news to us."

Nevers says that small, rural towns are getting a double whammy from the revenue sharing cutbacks and Tree Growth changes.

"More than half of our land is in tree growth," she says, and "we've been taking massive hits, year after year."

Tree Growth is a problem for the Town of Merrill which has 16,435 acres in the program. If that land were taxed at its full value, this small town of a little over 200 residents would be getting \$102,000 more in property taxes. Instead, the town gets only 24% of the "full value" tax revenue and the state's reimbursement that was supposed to make up for this (state) property tax relief program keeps going down.

Revenue sharing and Homestead Exemption cutbacks, just add to the burden of the residential property taxpayers in the towns of Merrill and Smyrna, says Nevers.

"These towns are really hurting," she says. Fortunately, the frugal towns have set aside "rainy day" money in their undesignated fund balance to deal with unplanned economic hardships. But, the town manager says, "We can't do this forever. I don't know what we'll do if the economy doesn't turn around."

## RURAL TOWNS IN SOMERSET COUNTY

Like other towns in rural parts of Maine, it's the residential homeowners in St. Albans, pop. 1,863, who pay most of the property taxes to operate

town government. The only other significant source of local revenue is the excise tax on motor vehicles, and they pay this too.

St. Albans operates its budget on a calendar year. Town Manager Rhonda Stark says that revenue sharing was down \$6,400 from 2008 to 2009 from just the slowdown in the economy. For a town that gets less than \$90,000 in revenue sharing, that "natural reduction" was a significant hit. Based on the recent news from Augusta, next year will be worse.

The proposed municipal budget for 2010 is down \$78,654 from 2009. The lower budget has been accomplished by eliminating contributions to reserve accounts, or said another way, deferring capital purchases. But, that is a short-term solution to their budget problems.

Town officials haven't dipped into surplus yet, but they might have to after the school and county tax bills are finalized. "That's the real unknown", says Stark.

She doesn't get much comfort from looking at school and county tax bills from prior years. The school district bill went from \$811,000 in 2007, to \$926,000 in 2008, and then to over \$1,074,000 in 2009. The county tab was about \$223,000 in 2007, then \$367,000 in 2008, and \$377,000 in 2009.

"We (town officials) would like to keep the property tax rate the same, but that probably won't happen because of the school and county budgets," said Stark.

## **HARD TIMES IN WESTERN MAINE**

Over in Norway, long-time Town Manager David Holt says that the changes necessary to address his municipal budget shortfall will be difficult to implement.

Holt says that there are two budget problems, one involving the current (FY 10) budget and the other preparing for the FY 11 fiscal year.

He is proposing to deal with the current budget shortfall by not spending monies that were approved at last year's town meeting for certain capital projects.

The FY 10 budget has an \$80,000 revenue sharing gap to fill and about \$50,000 of increased General Assistance costs to cover. Having spent

the last 34 years in town management, Holt says he's "not surprised to see the (state budget) cuts" acknowledging that the state didn't have many options.

The size of the increased GA costs over the budgeted amount is more surprising, but Holt has an explanation. Norway has an unusually high amount of rental housing by low and moderate income people for its size, Holt says. The high unemployment rate in the area combined with cutbacks to federal and state human services programs are causing residents to use local government's "safety net" GA program more heavily than expected.

Holt is now focusing his attention on next year's municipal budget, which he says will involve some difficult decisions. The board of selectmen doesn't want to increase property taxes and they would like to not have to reduce services, says Holt, but those two desires are somewhat incompatible.

"My job will be to help them find a way to make the hard decisions," he says.

Holt sizes up the situation in Norway as one where residents are generally getting what they expect from town government, but given the current state of affairs, this will likely have to change.

"We're going to have to cut back on some of the day-to-day services," he says. That might include: a reduction in town office hours and staffing, a greater employee share of health insurance costs, and saying "no" to some social service agency requests.

Holt doesn't foresee property taxes rising next year because of municipal spending, but does think that the school and county budgets will put pressure on town officials and the town meeting to accept a property tax increase.

"There are tough times ahead," Holt says, and while town officials have always had to make difficult decisions, the upcoming ones appear to be moving to another level of difficulty.

## **BAREBONES BUDGET DOWNEAST**

Machias Town Manager Betsy Fitzgerald says the town is operating with a "barebones budget" and she's not sure where she's going to find the \$60,000 to cover the revenue sharing

shortfall projected this fiscal year for Machias.

"We'll just have to say 'no' to some spending projects," Fitzgerald says. "We'll save by making equipment last longer." Like other towns interviewed for this article, the reserve funds, equipment purchases, and capital projects are the most likely candidates for immediate cost cutting measures.

"We're willing to give up funding items that do not directly impact the lives of our taxpayers," Fitzgerald says. "We're limping along," she adds, pointing out you can only do that for so long.

One project that is likely to be postponed, Fitzgerald says, is a new roof for the town office, even though the present roof is leaking and worn out and funding was included in the budget.

The Machias town manager, like many other town officials, is looking for ways to maximize town spending. She acknowledges that much of what the town has been able to provide beyond the basics has come from grant funding. One area where she sees progress an opportunity is the regional solid waste facility. She thinks the town has a good shot at getting more towns to join the regional transfer station.

Putting a philosophical spin on her town's financial situation, Fitzgerald says, "We're pedaling as fast as we can, but still in first gear."

## **SOUTHERN MAINE PERSPECTIVE**

Down in Kittery, Town Manager Jonathan Carter says that conservative budgeting over the past three years has better prepared the town for what he describes as a "very bad situation" in FY 11.

The current fiscal year curtailments will be less of a problem because municipal officials lowered their revenue sharing expectations from FY 09 to FY 10 by 20%, according to Carter. Instead of the \$146,000 shortfall that MMA estimated for Kittery when it did a statewide impact analysis of the FY 10 revenue sharing cuts, Carter says the town is looking at a \$50,000 gap to fill.

Many of his town manager colleagues would consider Carter fortunate to have townspeople who routinely approve budget contingency re-

serves. As part of the FY 10 budgeting process, Kittery voters approved reserve funds for uncontrollable budget overruns, such as General Assistance, heating fuel, and even to be used as matching funds for grants. These contingency funds help stabilize the property tax rate from year-to-year, says Carter.

The Kittery town manager is more concerned about the FY 11 municipal and school budgets than FY 10 shortfalls. In October, the Kittery Town Council gave Carter his FY 11 budget marching orders which was to have “no tax increase”.

Carter has several ‘irons in the fire’ that he says will allow the town to address long-term budget shortfalls in a more comprehensive way. One of his budget cost containment approaches is to move certain municipal services to “enterprise fund” operations. These structural changes have already begun with the sewer department, which Carter says is now entirely fee-based, and the recreation department which is “almost there”, he says. On the radar screen for fee-based operations are the transfer station and possibly the land use/code enforcement office.

Municipal-school cooperation also has cost-saving opportunities, Carter says. The town and school have been working for over a year on consolidating and centralizing their financial operations.

Ironically, Kittery is not as affected by the GPA cutbacks as many other communities, because the town doesn’t get much GPA. Nearby Eliot, Carter says, is in a much worse situation because the school system is so dependent on GPA, which, interestingly, has led to conversations with Kittery about tuitioning high school students to Marshwood (the high school in Eliot).

“There’s a fierce debate going on in Kittery” over this tuition proposal, says Carter. Even though some residents don’t see the connection between tuitioning and local budget containment, Carter does. “All of these (restructuring) discussions are connected,” he says.

#### OUTLOOK IN CAPITAL CITY

City officials in Augusta have a front row seat for all the state government budget wrangling, but the city’s

no different than any other Maine community in feeling the effects of state cutbacks.

Looking at his FY 11 municipal budget, City Manager Bill Bridgeo says the city and residents stand to lose \$484,000 in revenue sharing, \$107,000 from changes to the Homestead Exemption and about \$87,000 in reduced excise tax revenue.

Bridgeo says that city councilors want to keep the property tax rate stable, but they may reach a point where the city cannot avoid some level of property tax increase.

For the current fiscal year, the city manager plans to fall back on a “healthy fund balance” to make up most of the \$380,000 shortfall caused by proposed state cutbacks.

Early glimpses of the FY 11 municipal and school budgets present a more gloomy picture. Bridgeo says the city’s revenue/expenditure budget shortfall appears to be about \$1.2 million and the school’s budget gap is \$1.7 million. That adds up to a \$2.9 million shortfall for the entire city budget, which is around \$50 million. The

more discouraging news is that this municipal budget shortfall is based on a proposed budget that contains “no wage increases and a continuation of eight shutdown days”, says Bridgeo.

The math on trying to cover the \$2.9 million shortfall with property taxes would necessitate a 12% increase, and that’s not going to happen, says Bridgeo.

The city manager says that the city won’t be able to rely on surplus funds for next year’s budget, acknowledging that he’s probably looking at more employee layoffs.

Last year around this same time, the city was faced with a \$350,000 curtailment of its FY 09 budget. According to Bridgeo, that curtailment resulted in the elimination of 12 full-time positions in city government.

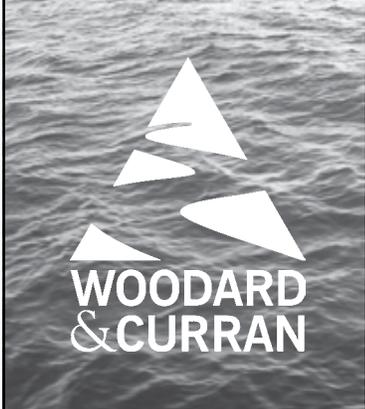
Bridgeo, who started his municipal management career in 1976, describes the current state of local government affairs as “grinding and demoralizing”. “I’ve never had to have so many hard conversations with employees,” he says. “It’s the toughest (experience) I’ve had to deal with in my career.” 

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## Major Change in Maine's Workers Compensation Act - Cancer Presumption for Firefighters

After many years of relative stability, a recent change in the Workers Compensation Act has increased the volatility of the municipal Workers Compensation market. On September 12, 2009, a change in Maine's Workers Compensation Act went into effect regarding firefighters. This change creates a presumption that certain cancers in firefighters are related to their employment as firefighters. However, this does not mean the firefighter's cancer is automatically covered under the Maine Workers Compensation Act. In effect, this new law shifts the burden of proof from the firefighter having to prove the cancer is related to firefighting activities to the municipal employer now having to prove that the cancer is or is not related to the firefighter's employment. As with any other part of the Workers Compensation Act, the municipal employer still has the opportunity to dispute the claim.

**The Maine Workers Compensation Act, Title 39-A, Section 328-B, paragraphs one through seven now reads:**

### **§328-B. Cancer suffered by a firefighter**

Cancer suffered by a firefighter is governed by this section.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cancer" means kidney cancer, non-Hodgkin's lymphoma, colon

cancer, leukemia, brain cancer, bladder cancer, multiple myeloma, prostate cancer, testicular cancer or breast cancer.

B. "Employed" means to be employed as an active duty firefighter or to be an active member of a volunteer fire association with no compensation other than injury and death benefits.

C. "Firefighter" means a member of a municipal fire department or volunteer fire association whose duties include the extinguishment of fires.

**2. Presumption.** If a firefighter who contracts cancer has met the requirements of subsections 3, 6 and 7, there is a rebuttable presumption that the firefighter contracted the cancer in the course of employment as a firefighter and as a result of that employment, that sufficient notice of the cancer has been given and that the disease was not occasioned by any willful act of the firefighter to cause the disease.

**3. Medical tests.** In order to be entitled to the presumption in subsection 2, during the time of employment as a firefighter, the firefighter must have undergone a standard, medically acceptable test for evidence of the cancer for which the presumption is sought or evidence of the medical conditions derived from the disease, which test failed to indicate the presence or condition of cancer.

**4. Liability if services performed**

**for more than one employer.** If a firefighter who contracts cancer was employed as a firefighter by more than one employer and qualifies for the presumption under subsection 2, and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to the risk of the cancer are liable under this Part.

**5. Retired firefighter.** This section applies to a firefighter who is diagnosed with cancer within 10 years of the firefighter's last active employment as a firefighter or prior to attaining 70 years of age, whichever occurs first.

**6. Length of service.** In order to qualify for the presumption under subsection 2, the firefighter must have been employed as a firefighter for 5 years and regularly responded to firefighting or emergency calls.

**7. Written verification.** In order to qualify for the presumption under subsection 2, a firefighter must sign a written affidavit declaring, to the best of the firefighter's knowledge and belief, that the firefighter's diagnosed cancer is not prevalent among the firefighter's blood-related parents, grandparents or siblings and that the firefighter has no substantial lifetime exposures to carcinogens that are associated with the firefighter's diagnosed cancer other than exposure through firefighting.

Story Continued on Page 17

# Reduce Employee Injuries & Liability Exposures Through Self-Inspections

According to the U.S. Department of Labor, slips, trips and falls are the most common form of occupational accident. Have you taken a moment today to take a good look around your work zone for safety? Whether you're sitting at your desk, strolling up the walkway to your office, or out in the field, new and old hazards are visible if you are take the time to look. A successful safety program encourages awareness and participation from all employees. Please use these checklists to assess your work place and prevent an accident.



### Look Up

- Is the area adequately lighted from parking area to doorway?
- Is the travel path free of seasonal overhead hazards such as falling ice and snow?
- Are chimneys, roofing materials, gutters, windows, trim, etc.

in good condition?

- Is the travel path clear of dead limbs or overhead branches?
- Are entrances to the building covered to reduce the amount of water that enters the building with employees?
- Is parking limited to areas where "off loading" snow from a roof won't damage a vehicle?

### Look Down

- Is snow removed and sand or

salt applied *before* employees come to work and offices open and then frequently thereafter?

- Have areas that drain poorly, retain snow or are habitually slippery been identified and permanent changes made to eliminate (engineer out) the hazard?
- Is the travel path free of potholes, washouts, broken edges, etc.?
- Is there uneven pavement, cracks, raised edges (greater than 1/2 inch high) that create a trip hazard?
- Do stairways and ramps have securely fastened handrails?
- Is the travel path clear of debris such as sand, gravel, wood chips, and mulch?

### Look Inward

- Are employees trained to identify slip, trip, fall hazards and take action or notify management?
- Are signs posted, areas restricted, etc. to protect employees and the public from known



hazards?

- Are employees encouraged or required to wear appropriate footwear for the conditions?
- Are administrative controls in place to prevent employee and public slip, trip & fall injuries through training, awareness, inspection and sound engineering and maintenance practices?



**Look Elsewhere**

- Review our “Preventing Slips, Trips & Falls” Safety Short on the MMA website at <http://www.memun.org/RMS/LC/safetyshorts/slips.pdf>



- Contact the Risk Management Services, Loss Control Department at (800) 590-5583 or speak directly with your assigned Loss Control Consultant for additional information or assistance. 

**WORKERS COMP** *(cont'd)*

Like any new law, it will take some time for the Workers Compensation Board and possibly Maine’s Supreme Court to determine how the firefighter cancer presumption is to be applied. Like most legal processes, this is likely to be expensive. However, the Maine Municipal Association Workers Compensation Fund’s conservative rate planning and investment philosophy over the last 30 years have placed the Fund in a very strong position with more than ample capacity to work through this process and to pay claims as appropriate. Once the law has been defined and the parties know what to expect in terms of its application, rates can be adjusted accordingly for the firefighter class of business and the appropriate contribution charged.

Now that the cancer presumption is in effect, it may be very difficult for municipalities to find Workers Compensation coverage in the commercial insurance market. This happened before, in the 1980s, when commercial insurers walked away from municipalities and created an insurance crisis. That is why the Maine Municipal Association Workers Compensation Fund was created and why the Fund will continue to provide local governments with the stable and reliable protection that Maine communities need. 

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## Congratulations Grant Recipients

The Safety Enhancement Grant and Scholarship Grant Programs offer financial incentives to members of the Maine Municipal Association Workers Compensation Fund. Safety Enhancement Grants are used to purchase safety equipment or services that assist in reducing the frequency and severity of workplace injuries.

The Maine Municipal Association has been awarding safety grants to members of the Workers Compensation Fund since 1999. The Grant program has assisted municipalities by bestowing \$1.89 million through funding of 1506 Safety Enhancement Grants and 320 Scholarship Grants.

### *We would like to congratulate the October 2009 Grant recipients*

Town of Albion	Town of Falmouth	Town of Millinocket	Town of Levant
Androscoggin County Commissioners	City of Gardiner	Town of Minot	Town of Liberty
Town of Arrowsic	Goodwin Mills Fire Department	Town of Montville	Town of Lincoln
City of Augusta	Northern Oxford Regional Ambulance	Town of Mount Chase	Lincoln/Sagadahoc Multicounty Jail
Town of Avon	Hampden Water District	Town of Mount Vernon	Mars Hill Utility District
Town of Bar Harbor	Town of Harpswell	Town of Newport	Town of Mexico
Town of Bradley	Hermon Volunteer Rescue Squad	Greater Augusta Utility District	Town of Millinocket
City of Brewer	Town of Kennebunkport	Town of Oakland	Town of Minot
Town of Bristol	Kittery Water District	Oxford County Commissioners	Town of Montville
Town of Bucksport	Town of Leeds	Penobscot County Commissioners	Town of Mount Chase
Town of Cape Elizabeth	Town of Levant	Hampden Water District	Town of Mount Vernon
City of Caribou	Town of Liberty	Town of Harpswell	Town of Newport
Town of Carmel	Town of Lincoln	Hermon Volunteer Rescue Squad	Greater Augusta Utility District
Town of East Millinocket	Lincoln/Sagadahoc Multicounty Jail	Town of Kennebunkport	Town of Oakland
Town of Eddington	Mars Hill Utility District	Kittery Water District	Oxford County Commissioners
Town of Edgecomb	Town of Mexico	Town of Leeds	Penobscot County Commissioners

Ed MacDonald, Loss Control Manager for Maine Municipal Association, advises that the program received 90 applications for the October 2009 grant period, and that \$80,398.78 was awarded. Grants are awarded in May and October each year.

The Grant Recipients have put their funds to use by purchasing such equipment as Gas Detectors, Ergonomics Devices, Lock-out / Tagout Station, Training Aids, Material Handling Equipment, as well as Traffic Control Signage to assist in reducing the frequency and severity of workplace injuries.

For more information about any of the Maine Municipal Association Risk Management Service programs, including Safety Enhancement Grants eligibility and applications, please visit our website at [www.memun.org](http://www.memun.org) and click on the Risk Management Services link, or call us at 1-800-590-5583. 🏠



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The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

# ARRA: A Year Later

By Douglas Rooks

The American Recovery and Reinvestment Act (ARRA) was signed into law on February 17, 2009, less than a month after President Obama took office. It was perhaps the quickest, and probably the most ambitious federal attempt ever to head off or at least mitigate a deepening recession. It allocated \$787 billion for a wide variety of programs.

Now, almost a year later, how has ARRA performed? As usual, it depends on who you ask.

From the point of view of spending, ARRA has done about what was expected. The Congressional Budget Office estimated that \$106 billion would be spent by the end of the 2009 federal fiscal year on September 30, and \$108 billion was actually committed – though the individual department totals vary. Labor and Education exceeded their targets while Health and Human Services spent less than expected.

Various economists have claimed that ARRA, also known as the federal stimulus bill, has not had a measurable effect on unemployment. But that doesn't take into account the actual composition of spending, which was devoted far more to income support and revenue sharing with states than it was to New Deal-style infrastructure projects that could be expected to lead to new hiring.

Since states are required to balance their budgets and most, like Maine, saw their revenues fall precipitously, they were also slashing spending, a trend that ARRA tried to counteract.

State spending on General Purpose Aid to Education – direct aid to local school budgets – peaked in FY 08 at

\$956 million; dropped to \$956 in FY 09; and further declined to \$909 in FY 10. With recently announced state budget cuts, GPA will fall to \$852 million by FY 11, which begins July 1. Fortunately, federal ARRA money added \$54 million to the FY 10 total, and \$59 million for FY 11, keeping school aid cuts fairly modest to date.

The state has been slower about implementing other aspects of ARRA funding for education, including grants for special education programs, which are a joint federal-state responsibility. Overall, as of October 30, Maine had been allocated \$270 million for education, but obligated only \$84 million. A new reporting period closed December 30, with new figures available sometime in late January.

Another hefty chunk of ARRA money went to direct income support – extended unemployment benefits, health insurance for laid-off workers and expanded Medicaid funding, for instance. And many grants went not only to government infrastructure projects but to the private sector as well. The second phase of the Stetson industrial wind power project in Washington was jump-started with ARRA funds.

## DESIGN FLAWS?

Overall, ARRA's emphasis on income support rather than job-creating projects reflected the consensus thinking at the time it was passed. Observed economist Charles Colgan, "Few people foresaw either the length or the depth of the current recession back when the stimulus was designed in the fall of 2008."

Although Maine's unemployment rate of 8% is about two points below the national rate, which appears to have peaked at just over 10%, "the

emphasis might have been different if we'd known just how greatly employment would be affected," said Colgan.

So far, Maine has seen a net loss of 30,000 jobs, comparable to the 1990-91 recession but with a longer and slower recovery forecast. Even though the recession dates, statistically, from late 2007, Colgan says that there won't likely be any net jobs gain until the third quarter of this year.

From the state and municipal government perspective, though, ARRA seems to have done what it was supposed to. The latest reporting from the state, which covers the third quarter of 2009, says that it created 2,200 jobs.

Many of those did come from high-visibility highway and bridge projects, such as the reconstruction of the southbound lanes of Interstate 295 between Gardiner and Topsham. That particular project, which was large but short-term, lasting just a few months, produced 127 full-time equivalent jobs per year, with a budget of \$35 million.

But there were a lot of smaller local projects that were also funded with ARRA money. The Second Street bridge replacement in Hallowell, for instance, created 10 jobs and cost \$1.2 million, and reconstruction of Route 117 in Turner created 14 jobs and cost \$2.7 million.

In all, Maine DOT has obligated \$128 million for 72 projects, of which 41 projects costing \$59 million have been completed. In terms of actual spending, those totals may be typical for most ARRA programs. There may be as much or more money spent in the second year of the stimulus effort as there was in the first.

## ENTHUSIASTIC PARTICIPANT

Maine has been a particularly en-

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

thusiastic participant in the ARRA process in areas of keen interest to municipalities: wastewater treatment plants and safe drinking water projects. The state and federal agencies involved, chiefly the Department of Environmental Protection (wastewater), Department of Health and Human Services (drinking water) and the Rural Development program of the U.S. Department of Agriculture (both) has a long history of working together, and they mobilized quickly to take advantage of ARRA.

Roger Crouse, manager of the Drinking Water State Revolving Fund for HHS, said Maine was the first state in the nation to obligate all of its \$19.5 million for new pipes and water treatment facilities. "All of the projects are under contract, and 80% of the money has already been spent," he said.

In all, there were 38 projects for municipal and private water suppliers, with all but 10 substantially complete.

One reason for the quick response is that HHS provided an incentive: a zero interest loan if projects met an early deadline. The state also provides a 30% outright grant, and a bit more for a few systems that have a prepon-

derance of low-income users.

"We put a lot of people to work," Crouse said, and the figures bear him out. Thus far, the \$128 million MDOT highway program has created 433 jobs, while the \$19 million ARRA drinking water funding through HHS – which covers only part of the cost of projects – has produced 180 jobs.

The reason why water system work produces jobs is that it is a labor-intensive process, Crouse said. Private contractors do most of the work, and they use seasonal construction crews of significant size.

Back in March, Crouse said he had some doubts about the capacity of the existing construction workforce to handle all the projects made possible by ARRA funding, but, he said, "It worked out great. A lot of contractors were hungry for work, and we also got great prices – well below our estimates, in many cases. So the taxpayers also got a good deal."

Spokesmen at DEP and HHS have said the various water programs had seen reduced federal support for the past decade, so there was plenty of work on the drawing board that could be quickly pushed through. "We always

have a stand-by list, so when there's money, we're ready to go." Crouse said.

Among the big beneficiaries of the drinking water funds was the Portland Water District, which received a total of \$4.5 million for 11 separate grants, with virtually all the money already spent. Other notable grants and loans through ARRA included \$1.5 million for the Passamaquoddy Water District, and \$553,000 for the Southwest Harbor Water District, both of which have been almost entirely spent.

Big projects for the Auburn and Lewiston water districts have taken a little longer to get going. The twin cities have together been awarded about \$4 million for treatment plant upgrades costing about \$7.8 million. To date, about \$1.8 million has been spent.

#### WASTEWATER TREATMENT

While sewage treatment projects are not quite as easy to jump-start, the DEP wastewater effort has also proceeded relatively quickly. ARRA provided \$30 million for grants and loans to municipal systems, and of that amount, \$13.3 million has been spent, or nearly 44%.



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Of the 40 ARRA-funded projects, 16 have been completed, 15 are under construction, five have had contracts awarded, and the remaining four projects have been sent out to bid, according to John True, senior environmental engineer.

The Auburn Sewer District was the first to get an ARRA wastewater project obligated, on April 30, with \$2.3 million in the form of a grant and no-interest loan.

Other notable projects were authorized in Ellsworth (\$2.7 million; \$2 million in ARRA funding); Limestone (\$5.3 million; \$2.3 million from ARRA) and Oakland (\$7.5 million and \$5 million)

There were others avenues for stimulus funding, too. The USDA Rural Development program also provided money for some of the same projects, in some cases entirely covering the cost.

For 2009, the Maine office garnered \$18.4 million in grants and another \$10.6 million in loans, for a total of \$29 million – which was in addition to the regular allocations of about half that amount, according to state program director Ron Lambert.

For the next fiscal year, the Maine office is anticipating another \$4.9 million in grants and \$11.4 million in loans for sewer and water programs.

The Rural Development program, he said, “operates a little differently” than the DEP and HHS federally funded programs, where specific state allocations are made. Rather, qualifying applications for Rural Development projects are forwarded to the national office “and most of them are funded,” Lambert said.

Among the major beneficiaries of sewer and water funding through Rural Development’s ARRA allocations, in grants and loans, were: Limestone, \$4.1 million; Brewer, \$3.1 million; Calais, \$3 million; Lincoln, \$2.65 million; Machias, \$2 million; and Newport; \$1.75 million. As the name implies, Rural Development targets money specifically to Maine’s rural counties, particularly in areas of high unemployment.

The figures also show the value of discretionary applications beyond the normal state allocations: Fully two-thirds of the grants and loans made in Maine in fiscal 2009 were from national office funds.

The same goes for the Community Facilities program, which funds capital items for community centers, libraries, and ambulance services. The by-application-only program got a significant boost from ARRA, including \$8.6 million in loans.

Lambert said there are still opportunities for communities to use ARRA to their advantage. One possibility for libraries is a grant program that will fund 100% of purchases up to \$500,000. While there’s no specific deadline, Lambert notes, “All ARRA funding will end on October 1 (2010), unless Congress decides to extend it.”

### ANOTHER ARRA ROUND

Back at DEP and HHS, officials are

gearing up for at least one more round of ARRA funding. Under the federal rules, states had exactly one year – up to February 17, 2010 – to obligate their ARRA funding. Those that didn’t use their entire allocation will see it recirculated back into a national pot, with another round of applications due in March or April. Crouse expects that Maine will get another significant infusion of cash from that process as well.

The reason Maine seems to do particularly well with these federal programs, according to Steve Levy, director of the Maine Rural Water Association, is that “our agencies have a long history of working together. That isn’t always true in other states.”

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as well as Maine Development Foundation members.

FMI and to register, visit [www.mdf.org/mdc\\_overview.php](http://www.mdf.org/mdc_overview.php)

of Maine's wastewater treatment and drinking water plants, the money will be well-spent, he said.

While Maine's municipal and community water systems "are not a bottomless pit" in terms of funding needs, they have lots of 80-100 year old pipe that's due or overdue for replacement. "And most of our sewage treatment plants are 40 years old, so they're also in need of substantial upgrading," he said.

### A 'SECOND STIMULUS'?

If a municipality still didn't get funding for a high priority in the first and, now, second rounds of ARRA, there may be more opportunities later in the year.

Congress is now discussing a "second stimulus" bill although this one would not be funded by federal borrowing, as was the first. The source is expected to be TARP (Troubled Asset Relief Program) that was authorized under the Bush administration after the financial crisis of September 2008 felled several major banks and threatened to topple many more. Not all of the funding has been used, some has been repaid, and while available amounts remain uncertain, there

might be more than \$300 billion available – less than half of ARRA, but still substantial by any measure.

If such a bill is passed this year, it will likely be heavier on the kind of infrastructure projects that were a relatively small part of ARRA. "The big question," said Charles Colgan, "is whether there will be more fiscal relief for states as well."

With the state-funded portion of Maine's biennial budget a projected 13% lower than in fiscal 2008-09, the answers could have a major impact in Augusta and other state capitals. "There are 50 governors and legislatures that are hoping the answer will

be yes," Colgan said.

So while the exact impact of ARRA and its possible successor will be debated for some time, there does seem to be plenty of opportunities for municipalities to get their priority projects funded by sources other than property tax dollars.

Steve Levy compared Maine's infrastructure needs to "an old house that's always needing work." ARRA is providing "a pretty big chunk" of what's needed to catch up, but will certainly not do the whole job. "We have to look at this as a long-term proposition, and do what we can every time there's an opportunity," he said. 

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# Maine Resource Recovery Association



142 Farm Rd. Suite 2  
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Bangor, ME 04402-1838  
Telephone 207-942-6772  
Facsimile 207-942-4017  
Email victor.horton@mrma.net or  
john.albertini@nrma.net

Website [WWW.MRMA.NET](http://WWW.MRMA.NET)

**Compost Bin sale** It is estimated that 25% of an average household's waste is kitchen scraps and yard trimmings. The Maine Resource Recovery Association (MRRA) in cooperation with Norseman Plastics, an Orbis company, is pleased to offer **The Earth Machine™** backyard compost bins at reduced costs to Maine communities and their residents.

Through local sales opportunities by municipalities, community groups, or service organizations (one lead group per community). Earth Machine™ backyard compost bins, kitchen pails, compost turners and rain barrels can be provided to homeowners at "Co-op buying power" low prices: bins will sell for **\$38.50**...a retail value of \$120, kitchen pails for **\$8.00**, a wingdigger compost turner for **\$16.50** and a rain barrel for **\$55.00**. This item alone retails for over \$130.

Once you register with MRRA to participate, a sample of everything can be sent to you, to assist with sales!



Residents will also receive a "how to" guide for FREE with each compost bin!

How the Program Works

**1 CONTACT** the Maine Resource Recovery Association (MRRA) at (207-942-6772) or email victor.horton@mrma.net for a Participation Packet.

**2 REGISTER** with the MRRA to participate in the sale.

**3 PROMOTE** the sale of bins and/or pails (a poster with an attached order form will be provided for easy copying) and accept orders until **April 30, 2010**, keeping track of who orders.

**4 RETURN** the Final Order Form and checks made payable to MRRA by **MAY 4, 2010**. Bins and wingdigger orders must be made in exact multiples of 20 ONLY, Rain barrels are in lots of 15 and kitchen pails are in lots of 26. Team up with a neighbor if you need to meet the minimum quantities.

**5 ACCEPT** delivery of compost bins/pails sometime during the week of **May 10, 2010**.

**6 DISTRIBUTE** the compost bins/pails to your residents and they start composting!

**\* This program is also available as a fundraiser for your group.**

Prepayments for orders will be accepted on **April 9, 2010** for delivery during the weeks of April 12-23, 2010, for those early birds.

**Sign your town or organization up for the Spring 2010 campaign**

# 2010 MMA Technology Conference

Thursday, March 11, Augusta Civic Center

(co-sponsored by the Maine GIS User Group)

## Preliminary Agenda

<b>8:00-8:45 a.m.</b> <b>Registration &amp; Coffee in the E-lounge</b> ( <i>Hancock</i> )	<b>12:00 – 1:30 p.m.</b> <b>Luncheon Keynote: Readyng Municipalities for the Future with Spatial Technology</b> James H. Page, PhD, CEO, James W. Sewall Company
<b>8:45-9:45 a.m.</b> <b>Opening Session: Electronic Disaster – Plan Ahead!</b> State of Maine Office of Information Technology	<b>1:45 – 2:30 p.m.</b>
<b>10:00-10:45 a.m.</b>	<b>TRACK I</b> ( <i>Cumberland</i> ) <b>Workforce Study</b> Tora Johnson, UMM & Charlie Colgan, USM
<b>TRACK I</b> ( <i>Cumberland</i> ) <b>Local – State – Federal</b> Mike Smith, MEGIS & Dan Walters, USGS	<b>Drs Office GeoPortal, Metadata, and other GIS questions</b> ( <i>Andro/Aroostook</i> )
<b>NHD Tutorials for Water Quality Projects</b> Doug Sutor, MEDEP	<b>1:45 – 3:15 p.m.</b>
<b>Drs Office GeoPortal, Metadata, and other GIS questions</b> ( <i>Andro/Aroostook</i> )	<b>TRACK II</b> ( <i>Kennebec</i> ): <b>Internet Streaming and Video on Demand for Municipal Meetings</b> South Portland Community Television
<b>TRACK II</b> ( <i>Kennebec</i> ): <b>Usability &amp; Accessibility in Website Design</b>	<b>TRACK III</b> ( <i>Penobscot</i> ): <b>Regulatory Aspects of Electronic Communications and Record-Keeping</b> William Dale, Jensen Baird Gardner & Henry & Shawn Pennington, IT Director, City of South Portland
<b>TRACK III</b> ( <i>Penobscot</i> ): <b>Accepting Credit Card Payments for Taxes and Fees</b> MunicipiPay	<b>2:45 – 3:30 p.m.</b>
<b>11:00 – 11:45 a.m.</b>	<b>TRACK I</b> ( <i>Cumberland</i> ) <b>Linking Parcels to Deeds</b> Steve Weed, Bar Harbor Assessor
<b>TRACK I</b> ( <i>Cumberland</i> ): <b>Mapping Shoreland Zoning</b> Mike White, Dirigo Spatial & Stephanie MacLagan, MEDEP	<b>Heart and Soul of Damariscotta</b> Judy Colby-George, Spatial Alternatives
<b>Mapping Vernal Pools</b> Fred DiBello, Stantec & Aimee Dubois, Town of Scarborough	<b>2:45 – 3:30 p.m.</b>
<b>Drs Office GeoPortal, Metadata, and other GIS questions</b> ( <i>Andro/Aroostook</i> )	<b>Drs Office GeoPortal, Metadata, and other GIS questions</b> ( <i>Andro/Aroostook</i> )
<b>TRACK II</b> ( <i>Kennebec</i> ): <b>Surviving Electronic Disaster</b> Panel of Municipal Officials	<b>3:45 to 4:30 p.m.</b>
<b>TRACK III</b> ( <i>Penobscot</i> ): <b>Cost Effective Technology in a Tight Economy</b> Informe	<b>MEGUG Business Meeting</b>

### Registration:

\$65.00 (MMA Members, Non-profit, Gov't Agencies, MEGUG) / \$90.00 (Bus. Reps)  
Register online at: [www.memun.org](http://www.memun.org) (click on the Technology Conference logo)

### Questions & Cancellations:

If you have any questions regarding registration, please call Educational Services at 1-800-452-8786 (Augusta area, 623-8428). Notification must be given at least 72 hours before the conference to receive a refund (minus processing fee). All cancellations are subject to a \$10 administrative fee for processing.

# People

**Thomas “Randy” Cannon** has been returned to his job as Van Buren town manager following an agreement he reached recently with the new town council. Last fall, the former council voted 3-2 to remove him from office; however, some town residents and the two dissenting councilors questioned the legality of the action. The three councilors who voted to fire Cannon, including the council chairman, were removed from office in a special recall election on December 11. The new five-member town council voted unanimously to reinstate Cannon.

**Tammy Cunningham** has been named the new Chelsea town clerk after working for a Gardiner law firm as a legal assistant and bookkeeper. Cunningham, 44, will work 35 hours a week. Her sister, **Theresa Haskell**, is Windsor town manager.

After four years in the job as Old Orchard Beach public works director, **Mary Ann Conroy** has been hired as public works commissioner for the town of Kittery. Conroy began her new duties in late December. She was commended by OOB officials for her expertise, accomplishments and professionalism.

**Robert “Bob” Farrar** has been named interim Bangor city manager to replace **Edward Barrett**, who started his new job as Lewiston city administrator in early January. As assistant city manager, Farrar has worked in the manager’s office for two decades and was seen by councilors as the obvious choice to fill in while the council searches for a permanent replacement for Barrett, who managed Bangor for 22 years. Before taking the interim position, Farrar announced that he was not a candidate for the permanent one.

Wiscasset selectmen have reached a severance agreement with Town Manager **Arthur Faucher**. The board in early January named assessor **Sue Varney** as deputy town manager. She will assume many of Faucher’s duties until the agreement is official.

Longtime Oxford County Administrator **Carole Fulton** has retired after almost 30 years of service. She will be replaced by former Bethel Town Manager **Scott Cole**.

Former Eastport City Manager **George “Bud” Finch** has agreed to continue working on a week-to-week basis while the city council searches for his replacement. Finch resigned after 14 years on the job, effective December 31, because he did not think the council supported him. Some three dozen residents attended the early January meeting that solidified Finch’s new agreement. The council hopes to have a new full-time manager by late March or early April.

Former Freeport Fire Chief **Dwight “Lib” Libby Sr.** died January 3 at the age of 65. Libby served the town as fire chief from 1977 to 1983 and led the department from an all-volunteer crew to a largely full-time staff. He served as a volunteer for the department after his retirement.

Madison Fire Chief **Roger Lightbody Sr.** will replace **Robert Higgins** as Somerset County Emergency Management director. Lightbody has been involved with the Madison Fire Department for almost 25 years, the last 13 as chief. Higgins served as county EMA director for eight years before retiring on December 31.

Greenville Police Chief **Scott MacMaster** has been named Richmond chief, effective January 19. MacMaster has worked as chief in Greenville since July 2007, and previously served as a patrolman in Hallowell and Gardiner. While in Greenville, MacMaster, 35, was cited for bravery for diffusing a gun incident before anyone was injured.

Machais Animal Control Officer **Kevin Nelson** has agreed to add the town of Steuben to his duties, effective

in early December.

**Linda Pagels-Wentworth** has been named town manager in Baileyville. A former city manager in Calais, Pagels-Wentworth has served the past three years as Washington County’s first manager.

**Diana Hills** has been appointed town clerk in Lincoln by the town council. Hills has served as interim town clerk since August.

**Eric Horn** has resigned as a selectman in the Town of Peru. He was in the first year of a term that expired in June 2012.

*More November 3 election results:*

Biddeford Mayor **Joanne Twomey** easily defeated three other candidates to win re-election with 4,100 votes. The closest vote-getter was David Flood with 2,640. In the seven-candidate race for two at-large city council seats, **Patricia Boston** and incumbent **George Lamontagne** collected the most votes with 2,816 and 2,428, respectively. Incumbent **James Emerson** narrowly kept his Ward 1 seat by defeating his challenger by 24 votes. Meanwhile, **David Bourque** won the Ward 2 seat. Six incumbent councilors were re-elected including: **Pete Lamontagne** (at large), **Rick Laverriere** (Ward 6), **Bob Mills** (Ward 5 and the new council president), **Ray Gagnon** (Ward 7) and **Clem Fleurent** (Ward 3).

Hallowell City Council President **Charlotte Warren** was elected mayor, defeating **Dot Mithee** by a vote of 822-519. Mithee served on the council from 2002 to 2008. Warren replaced outgoing Mayor **Anthony Masciadri**. 



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[www.mainestart.org](http://www.mainestart.org)

**Bath:** The city will borrow \$300,000 to combine with \$330,000 in privately-raised funding by Friends For Our Future for new turf for the Morse High School athletic field. The vote was 3-2, with Council Chairman Bernard Wyman casting the tie-breaking vote.

**Belgrade:** Town meeting voters in March will have competing municipal building proposals to consider after selectmen in early January approved a citizen-petition plan for the March warrant. The selectmen are seeking \$3.6 million for a town complex that would include a town office, public library and food pantry. The smaller proposal would cut the price to \$1 million for a new town office only.

**Biddeford:** The city is drafting an ordinance to require property owners to secure their buildings when they become vacant to avoid people using the buildings for shelter or stealing goods from the residence. The issue is a growing problem for the community.

**Buckfield:** Voters easily passed a six-month moratorium on wind power development, reflecting a trend across Maine over the past two years. The moratorium will give the town time to formulate regulations for wind projects, such as a three-turbine proposal atop Streaked Mountain where 20 residences are located within a mile of the proposed site.

**Burlington:** The town's Triangle Fire Department has disbanded, at least temporarily, due to an inability to get members. In the meantime, the Town of Lincoln has stepped in to provide the town with fire protection services on a temporary basis. The agreement, which could last until April, was approved unanimously by the Lincoln Town Council on January 11. A longer-term contract for fire services is expected to be presented to Burlington residents at the annual town meeting in March.

**Glenburn:** Residents will be surveyed this year about ideas to recruit and support business in the Bangor suburb of 4,300 people. Town Manager Michael Crooker said the effort will focus on increasing jobs and the tax base. The project will begin with a first survey in January to get information to help develop an economic development program.

**Madawaska:** The Madawaska Ambu-

lance Service received the 2009 "Service of the Year" award in December from the Midcoast Emergency Medical Services. Selectmen and the town manager praised the ambulance crew during a December meeting.

**Old Orchard Beach:** A new ordinance bans public and private marinas in Saco Bay, the first step in getting the town's boundary moved three miles out to sea, and gives Old Orchard Beach and neighboring Saco jurisdiction over their portions of the bay. Saco must also enact a ban.

**Mars Hill:** The Aroostook County town's utility district has been awarded more than \$2.5 million in grants and loans under the federal stimulus program to replace 10,000 feet of cast-iron water main and install nine hydrants, among other plans. Meanwhile, the town of Lincoln in Penobscot County will get \$1.4 million for sewer pump upgrades as part of the state's overall \$4 million stimulus award for water quality work. In Lincoln, the municipality will replace 30-year-old pump stations.

**Sanford:** A spending and hiring freeze was imposed in late December because of a projected \$1.1 million budget shortfall for the last six months of the fiscal year.

**South Portland:** The city council's recent edict to keep property taxes stable in 2010 will likely force officials to proposed significant cuts in municipal and school service jobs. The school department is anticipating a state funding shortfall of at least \$2.1 million and perhaps as much as \$2.3 million, while

City Manager James Gailey said the city could see a \$1.3 million budget shortfall. In what has become commonplace in most Maine communities in the past few years, South Portland faces declining non-property tax revenue but increasing operating costs.

**St. Agatha:** The town is refinancing its sewer debt, which will result in a savings of \$390,000 in principal and interest. Town Manager Ryan Pelletier asked for authority to refinance three U.S. Department of Agriculture loans into one with the Maine Municipal Bond Bank under the Department of Environmental Protection's clean water revolving loan fund. Pelletier said the consolidation would shorten the payback term by nine years and get the town a much better interest rate.

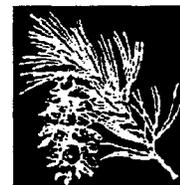
**Waldoboro:** Selectmen in late December voted to oppose a legislative bill that would put the Department of Environmental Protection in charge of establishing rules for identifying products suitable for recycling under a new "stewardship plans" program.

**Wells:** The town in late December earned an above average rating in its latest audit, in part for growing its undesignated fund balance to \$7.7 million and dedicating \$3 million to capital reserves. The town also has put aside another \$3.5 million in special and dedicated funds.

**Statewide:** Five counties in Maine were designated as disaster areas in 2009 by the federal government. Aroostook, Hancock, Penobscot, Piscataquis and Somerset were named natural disaster areas for both flooding and drought. [mt](#)

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# Municipal Bulletin Board

## LAWMAKERS RETURN FOR 'BRUTAL' SESSIONS

(from *Stateline.org, Staff Reports, January 4, 2010*)

Lawmakers in 13 states return this week for legislative sessions that will be dominated by austere budgets and major elections in November.

Regular 2010 sessions will get under way in Indiana, Kentucky, Maine, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island and Vermont, according to the National Conference of State Legislatures.

"It's going to be the toughest year yet," Raymond Sheppach, the head of the National Governors Association, told *The Associated Press*. The wire service reported that the states' ongoing cash crunch is likely to mean deep spending cuts or higher taxes and "could also mean new tolls to fund road projects, more prisoners being released early to trim corrections budgets, and the end of welfare programs that don't bring matching federal dollars."

In Nebraska, "the word around here is that if your bill has a fiscal note" – costs money or results in a loss of tax revenue – "it's not going anywhere," one state senator told the *Lincoln Journal-Star*. "We're not going to spend a dime. There's no new money," another senator said.

Hanging over this year's legislative sessions are the November elections, in which voters in 37 states will choose governors and 46 states will choose legislators. In many states, election-year politics could complicate negotiations over how to balance budgets.

It's already happening in Illinois, where Comptroller Dan Hynes (D) – who is running for governor against incumbent Pat Quinn (D) – recently refused Quinn's request to borrow \$500 million to pay off some of the state's bills, saying he had concerns about the way the state's finances were being managed.

Hynes' refusal prompted an angry reaction from the governor, "who noted that the comptroller approved a larger short-term loan in 2008 under similar circumstances," the *Wall Street Journal* reported. "This year he refused to do

it because he's running against me for governor," Quinn told the *Journal*.

## BUDGET BATTLE UNDER WAY IN CALIFORNIA

(from *Stateline.org, Staff Reports, January 12, 2010*)

Two days after California Gov. Arnold Schwarzenegger (R) delivered an optimistic state of the state address that called on both political parties to work together, he released a budget plan that the *Los Angeles Times* said paves the way for "another year of paralysis in Sacramento."

In his speech to lawmakers Jan. 6, Schwarzenegger said that "California has the means and the mind power to solve all of its problems." But the no-new-taxes budget blueprint he delivered on Jan. 8 – aimed at closing a fresh \$20 billion deficit after legislators made \$60 billion in cuts in 2009 – was met with fierce criticism from majority Democrats, who dislike the deep cuts to areas that already have seen sharp reductions.

"With regard to the bulk of the budget proposal, I have one reaction: You've got to be kidding," the Democratic leader of the state Senate said, according to the *Los Angeles Times*. The Democratic speaker of the state Assembly called the governor's proposal a "big pile of denial."

Among the areas targeted for cuts in Schwarzenegger's budget plan, according to the *Times*, are "the CalWorks program for welfare recipients; the In-

home Supportive Services program intended to keep the elderly and disabled out of nursing homes; Healthy Families, which provides healthcare to children; prisoner rehabilitation; Medi-Cal, the health program for the poor; and Cal Grant awards for college students."

Some federal lawmakers also don't like Schwarzenegger's budget. Taking an aggressive new approach to what he considers an unfair distribution of federal funds to the states, Schwarzenegger is relying in his budget on \$6.9 billion in as-yet-unapproved new federal money, the *Washington Post* reported.

"Schwarzenegger is asking Washington to reimburse Medicaid expenses at the national average of 57 cents on the dollar, up from 50 cents (worth \$1.8 billion). He is also pleading to make permanent certain federal stimulus outlays set to run out at year's end (\$2.1 billion)," the *Post* reported.

Meanwhile, the *New York Times* called attention to a groundswell of voter anger in California that could result in a series of dramatic, budget-related ballot initiatives in November, even as it noted that voter input "helped get California into its budget crisis (by) forcing spending in some areas while limiting taxation in others."

"The number of initiatives so far, while high, is not the largest in history," the *Times* said. "But the rage that underlies them has not been seen in decades, said lawmakers, pollsters, political consultants and the proponents." [ME]



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# Legal

## MMA ATTORNEY CALLED UP

MMA staff attorney Michael L. Stultz, a Navy JAG commander, has been called up for a nine-month tour of duty in Germany beginning this month. This is Michael's third tour in four years. In 2007 he spent seven months in Iraq. In 2009 he was stationed in Italy for four months. Once again, we wish him well.

In Michael's absence MMA's Legal Services will be short-staffed until October. As a result we may have to postpone some requests for assistance. Also, our response time to normal inquiries may not be as timely as usual. We appreciate your understanding.

## REFERENDUM ELECTIONS REQUIRED IN SOME CASES

Any town is free to accept the secret ballot provisions of 30-A M.R.S.A. § 2528 and by so doing conduct local elections in the same manner as State or federal elections, *i.e.*, using pre-printed ballots, at polling places, during polling hours, with absentee voting and so forth. (This must be voted at a meeting held at least 90 days before the annual meeting at which it is to take effect, however, see "Annual Meetings & the 90-Day Rule," *Maine Townsman*, "Legal Notes," December 2009.)

But even in towns that use the traditional "open" town meeting in lieu of a secret ballot, there are certain matters that, by statute, *must* be decided by secret ballot referendum election. Here's a list of them:

**Municipal charters.** Any vote relating to a charter adoption, charter revision, charter modification or charter amendment, including a vote to establish a charter commission, must be by referendum election (see 30-A M.R.S.A. § 2105).

**Local option liquor sales.** Any local option vote to authorize the sale of alcoholic beverages or to allow or not allow bottle clubs in a municipality must be by referendum election (see 28-A M.R.S.A. §§ 121 and 162, respectively). (Note that a local option liquor vote may be initiated *only* by voter petition.)

**SAD and RSU referenda.** Any vote on a School Administrative District or Regional School Unit referendum ques-

tion must be by referendum election (see 20-A M.R.S.A. §§ 1353 and 1503, respectively).

**School budget validation.** Any vote on a School Administrative District, Regional School District, Community School District or municipal school budget validation question must be by referendum election (see 20-A M.R.S.A. §§ 1305-B, 1486, 1701-B and 2307, respectively).

**Revenue bonds.** Any vote by a town (as distinguished from a city) to issue revenue bonds must be by referendum election (see 30-A M.R.S.A. § 5404).

**School construction projects.** Any vote on a school construction project must be by referendum election (see 20-A M.R.S.A. § 15904).

**School closings.** Any vote to close a school in a Regional School Unit or in any other school administrative unit must be by referendum election (see 20-A M.R.S.A. §§ 1512 and 4102, respectively).

**Municipal electric districts.** Any vote to form a single- or multi-member municipal electric district must be by referendum election (see 35-A M.R.S.A. §§ 3903 and 3904, respectively).

**Municipal deorganization.** Any final vote to deorganize a municipality or plantation must be by referendum election (see 30-A M.R.S.A. § 7209).

For details on the conduct of secret ballot referendum elections, see MMA's *Town Meetings & Elections Manual*, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

## SECRET OR WRITTEN BALLOT?

**Question:** What's the difference between a "secret" ballot and a "written" ballot?

**Answer:** A secret or "Australian" ballot (so called because it originated there in the 1850s) is a pre-printed ballot listing nominated candidates, or referendum questions, or both. A secret ballot election is conducted at

# Municipal Calendar

**ON OR BEFORE FEBRUARY 15** — Written statements, as prescribed by State Tax Assessor, of wages withheld in the previous calendar year is to be furnished each employee (36 MRSA § 5251).

— Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333-0011 [22 MRSA §4311].

**FEBRUARY 15** — Presidents' Day, the third Monday in February, is a legal holiday (4 MRSA § 1051); and shall be observed as a school holiday in the absence of any vote of the superintending school committee designating how the day shall be observed (20-A MRSA § 4802).

**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 MRSA §2523). If adoption of an

ordinance is proposed, make sure of compliance with 30-A MRSA §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 MRSA § 122 unless changed by municipal officers.

— Copies of annual report are to be deposited in the municipal office or a convenient place of business for distribution to voters at least 3 days prior to the annual meeting (30-A MRSA § 2801)

— Check 30-A MRSA § 5823 for audits, and § 2801 for town reports.

**BY MARCH 1** — Solid Waste Municipal Reporting forms are due back to the State Planning Office, 38 State House Station, Augusta Me 04333 [38 MRSA §2125(1)].

a polling place, during polling hours, with absentee voting and so forth. Generally, a secret ballot election may be held only if a town has adopted the secret ballot method of voting as provided in 30-A M.R.S.A. § 2528. (This must be voted at a meeting held at least 90 days before the annual meeting at which it is to take effect, see “Annual Meetings & the 90-Day Rule,” *Maine Townsman*, “Legal Notes,” December 2009.)

A written ballot, by contrast, is simply a paper ballot, either blank or with two boxes with the words “yes” and “no” printed next to them. A written ballot is simply one of the methods of voting at a traditional “open” town meeting. (Others include a voice vote, a show of hands, a standing vote and a division of the house.) A written ballot is not marked in a voting booth, nor is absentee voting permitted (see “No Absentee Voting at ‘Open’ Town Meetings,” *Maine Townsman*, “Legal Notes,” May 2005). Instead, written ballots are marked by voters in their seats and may be cast only by those present at the meeting.

A written ballot may be called for by motion of any voter and an affirmative vote, by the moderator asking for unanimous consent, or because it is required by law for the election of the moderator, selectmen and school committee (see 30-A M.R.S.A. § 2525(1)). No official may be elected on a motion to cast one ballot, however (see 30-A M.R.S.A. § 2525(3)).

A written ballot is sometimes confused with a secret ballot because written ballots may be folded. But strictly speaking this does not make them “secret” in the same sense as in a full-blown secret ballot election, which entails voting booths, ballot boxes, absentee voting and all the other attributes

of an election conducted in the same manner as a State or federal election.

For more on the differences between secret and written ballots, see MMA’s *Town Meetings & Elections Manual*, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

### TOWN MEETING WARRANTS – POSTED VERSUS PUBLISHED

**Question:** We publish our town meeting warrant in our annual town report in addition to posting it around town. Which is the “official” version?

**Answer:** The posted one. State law requires an attested copy of a town meeting warrant to be posted in some conspicuous, public place in the town at least seven days before the meeting (see 30-A M.R.S.A. § 2523(4)). There is no legal requirement that a warrant be published in the annual report (or anywhere else for that matter).

Many towns, as a matter of custom and convenience to residents, include the warrant in their annual reports, but this is not the official or legal version – only the posted warrant is. If a

discrepancy exists between the posted and the published warrant, the posted one controls.

Since annual reports are usually prepared far ahead of the posting of the warrant, it is not uncommon for the warrant, if published, to be revised before posting. This is perfectly legal and legitimate and often necessary due to last-minute developments or changed circumstances. Once again, it is the posted warrant that controls.

If the published warrant is altered before posting, it may be advisable for the moderator to point out the changes before the business of the meeting begins. In addition, or in the alternative, copies of the posted warrant may be made available at or prior to the meeting. However, neither of these actions is legally required since the posting of the warrant is the only mandated notice or “warning” of the meeting and its business.

For more on town meeting warrants, see MMA’s *Town Meetings & Elections Manual*, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.) [memun](mailto:memun@maine.org)



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1-207-828-7583  
Connie.Brennan@TDBanknorth.com



**Marge Barker**  
*Senior Vice President*  
1-207-828-7493  
Marge.Barker@TDBanknorth.com



**Laura G. Warner**  
*Vice President*  
1-207-828-7408  
Laura.Warner@TDBanknorth.com



**Nicole Pellenz**  
*Vice President*  
1-207-828-7440  
Nicole.Pellenz@TDBanknorth.com



**Barbara Durr**  
*Assistant Vice President*  
1-207-828-7457  
Barbara.Durr@TDBanknorth.com



**Shaun McIntyre**  
*Sales and Service Officer*  
1-207-828-7474  
Shaun.McIntyre@TDBanknorth.com



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