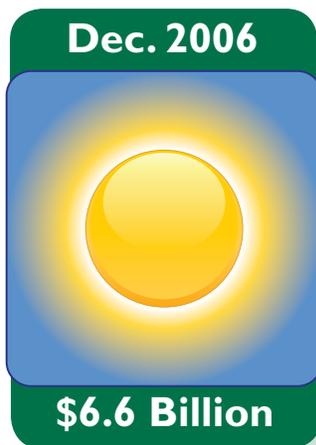


# maine townsman

The Magazine of the Maine Municipal Association

## Maine's General Fund Forecasts for FY 2010–2011



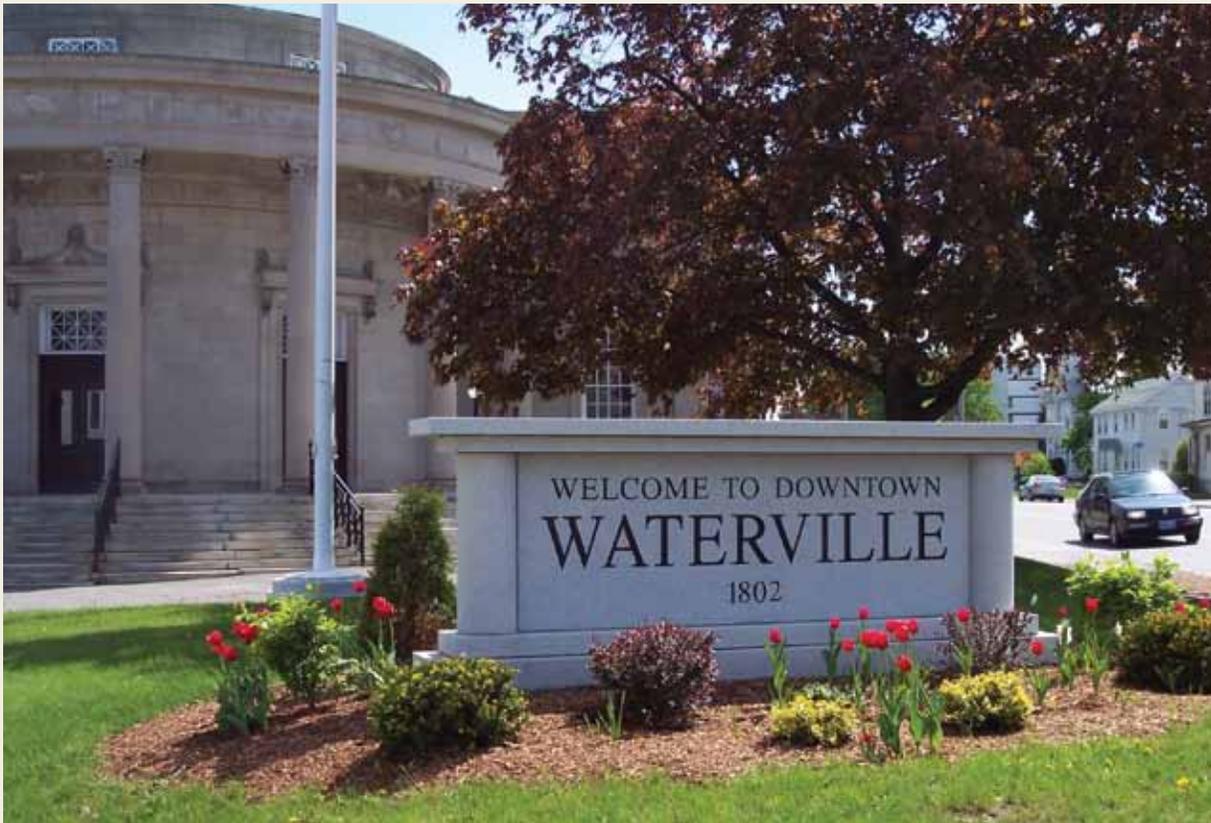
**Stormy  
Days  
Ahead**



### IN THIS ISSUE:

Money • Carryover Bills • Impact Bills  
Highway Simplification • Election Results • UAL

# Thriving downtowns are good for all of Maine.



At Bangor Savings Bank, we make the complex simple. By ensuring that you can provide security, efficiency, and prudent management of your taxpayers' money, we help make your downtown thrive. We also ensure that the transition to our bank is easy. So you can

AUTOMATED GOVERNMENT SWEEP  
BONDED COURIER SERVICES  
CDARS INSURED CDs  
CHECK CAPTURE  
CREDIT CARD PROCESSING  
INTERNET BANKING  
RECONCILIATION SERVICES  
SUB ACCOUNTING

start using the banking tools you need—from payroll services to cash management solutions and merchant card processing. For more information about how we can help your municipality, visit us at [www.bangor.com](http://www.bangor.com) or call us at **1.877.Bangor1 (226.4671)**.

**Bangor**  
Savings Bank

**You matter more.**

Member FDIC

## EXECUTIVE COMMITTEE

### PRESIDENT

GALEN LARRABEE  
Chair of Selectmen, Knox

### VICE PRESIDENT

JOHN SYLVESTER  
Selectman, Alfred

### DIRECTORS

STEPHAN BUNKER  
Chair of Selectmen, Farmington

CLINT DESCHENE  
Town Manager, Hermon

PETER NIELSEN  
Town Manager, Oakland

JOHN ANDERSON  
Town Manager, Boothbay

WILLIAM REED  
Town Manager, Veazie

SOPHIA WILSON  
Town Manager, Brownville

RYAN PELLETIER  
Town Manager, Saint Agatha

MARK GREEN  
Town Manager, Sanford

GEORGE RICHARDSON, JR.  
Chair of Selectmen, Westport Island

### IMMEDIATE PAST PRESIDENT

ANNE SWIFT-KAYATTA  
Councilor, Cape Elizabeth

#### Executive Director:

Chris Lockwood

#### Magazine Staff:

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

Valerie Pomerleau, Circulation Manager  
Jaime Clark, Graphic Design

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

MAINE TOWNSMAN (ISSN 0025-0791) is published monthly, except in August, by the Maine Municipal Association, 60 Community Drive, Augusta, Maine 04330. (207) 623-8428. Periodicals postage paid at Augusta, Maine, and at additional mailing offices. All rights reserved. Postmaster send address changes to: Maine Townsman, 60 Community Drive, Augusta, Maine 04330. Information, policies and opinions do not necessarily reflect the views or policies of the Maine Municipal Association. Subscription price: \$15 per year.

December, 2009  
Vol. 71, No. 11



recycled paper

## contents

<b>Money, Money, Money...</b>	<b>5</b>
State budget shortfalls will be the talk of the town when the state legislature convenes for the 2010 legislative session. Municipalities and property taxpayers should be keeping a watchful eye on state legislators as they look for ways to balance the state budget.	
<b>Carryover Bills</b>	<b>7</b>
Many of the bills carried over from the first regular session of the legislature have relevance to local government. This article provides some detail on those bills, including their legislative history and current status.	
<b>Impact Bills</b>	<b>13</b>
Legislative leadership has allowed about half of the bills presented to them to be advanced to the upcoming legislative session. MMA staff has identified several of these bills as having a municipal impact.	
<b>Highway Simplification</b>	<b>22</b>
In the legislative session completed in June, a Highway Simplification Study Policy Work Group was formed to examine the division of maintenance and repair responsibilities in the current road classification system and to determine the best construction standards for roadways across the state.	
<b>Election Results</b>	<b>24</b>
The Secretary of State has issued the official results of the November 3, 2009 statewide election and they show interestingly uniform voting patterns across the state, county-by-county.	
<b>Unfunded Liability</b>	<b>25</b>
Maine's public pension plan for state employees and teachers has a large unfunded liability that the state legislature is constitutionally-required to pay down. On top of this unfunded retirement liability, the state is also facing a significant Health Plan actuarial liability for state employees and teachers. These financial liabilities of the state are likely to be a huge state budget issue in coming years.	
<b>People</b>	<b>29</b>
<b>News</b>	<b>30</b>
<b>Municipal Bulletin Board</b>	<b>31</b>
<b>Legal</b>	<b>32</b>
<b>Index for 2009</b>	<b>34</b>

**ABOUT THE COVER:** In December 2006, the Revenue Forecasting Committee made its first forecast of FY 2010-11 General Fund revenues. The following revisions have all been downward – for a total cut of 19%. General Fund Revenues are projected to be \$100 million less in FY 2010-11 (\$5.37 Billion) than they were in FY 2004-05. (\$5.47 Billion).



# Maine Municipal Employees Health Trust

Take Advantage of the Wellness Difference  
Programs designed to keep you healthy!



Lending Library Materials



Health Screenings, Including  
Follow-Up Consultations



Worksite Health Education Classes



Employee Assistance  
Program Grants



Wellness Incentive Grants to Help  
Fund Healthy Activities



Newsletters

**...and much, much more!**

*The Difference is Trust...  
...Your Trust*

Contact the Health Trust Wellness Works department for more details.



Call us at: 1-800-852-8300 • Visit us at: [www.mmeht.org](http://www.mmeht.org)

# Money, Money, Money... This Session's #1 Topic

By Geoff Herman, Director, State  
and Federal Relations, MMA

It is no secret that the struggling economy is continuing to have a negative effect on state revenue, and as far as next session's legislative preview might be concerned, not much has changed from a year ago.

The predominant focus of the 2010 legislative session will be the magnitude of the state budget cuts, the programs affected and whether the programmatic cuts are structured to be permanent or temporary. An additional inquiry from the municipal perspective will be the degree to which those cuts at the state level will result in property tax increases or sharp reductions in municipal services at the local level.

To help address shortfalls in state revenue last spring, lawmakers took \$44 million out of the municipal revenue sharing program, initiated sharp cuts in public school subsidy and cut property tax relief programs across the board. Will the upcoming session usher in more of the same? It seems the property tax is only too available to effectively cushion the impact of state budget shortfalls, either as a direct hit (e.g., revenue sharing raids) or as a two-cushion bank shot (e.g., cuts in school subsidy). The tendency of any state government to increase its reliance on the property tax or other local revenues in response to economic downturns is as predictable as a pendulum swing, which doesn't make the phenomenon any less unfortunate.

First, it is frustrating to hear politicians brag about 'balancing the budget without raising "broad-based" taxes' after they have pushed onto the property tax a big chunk of financial burden that has been historically carried by the "broad-based" taxes.

More important than mere frustra-

tion, the overreliance on the property tax in Maine makes the availability of basic governmental services highly contingent on a town or city's property tax capacity, leading to a nakedly inequitable result. Obtaining greater equity was a central public policy component of the drive to obtain 55% state funding for K-12 education because disparate fiscal capacities become especially apparent, and deeply problematic, when it comes to public education.

The discussion begins, however, by putting a dollar value on the the gap between incoming state revenue and authorized expenditures.

On November 20th, that information was provided when the revenue shortfall was formally identified by the state's Revenue Forecasting Committee (RFC). After reviewing the trends in actual revenue collections and then weaving into that information the "macro" economic forecast issued in early November by the Consensus Economic Forecasting Committee, the RFC predicted that the state's General Fund revenue would fall short of current predictions by \$209.4 million during this fiscal year (FY 2010) and \$174.3 million during the next fiscal year, for a biennial General Fund shortfall of \$383.7 million.

To put that forecast into some context, total General Fund revenue for the current biennium is now predicted to be \$5.37 billion, which is fully one billion dollars or 20% less than was projected for this biennium several years ago (see Townsman cover) and \$100 million less than the General Fund revenues actually collected six years ago during the 2004-2005 biennium.

On the transportation side, the

RFC pegged the Highway Fund shortfall at \$21 million, which resets the biennial Highway Fund revenue at \$600 million. \$600 million is just about what was available for the Highway Fund eight years ago, during the 2002-2003 biennium.

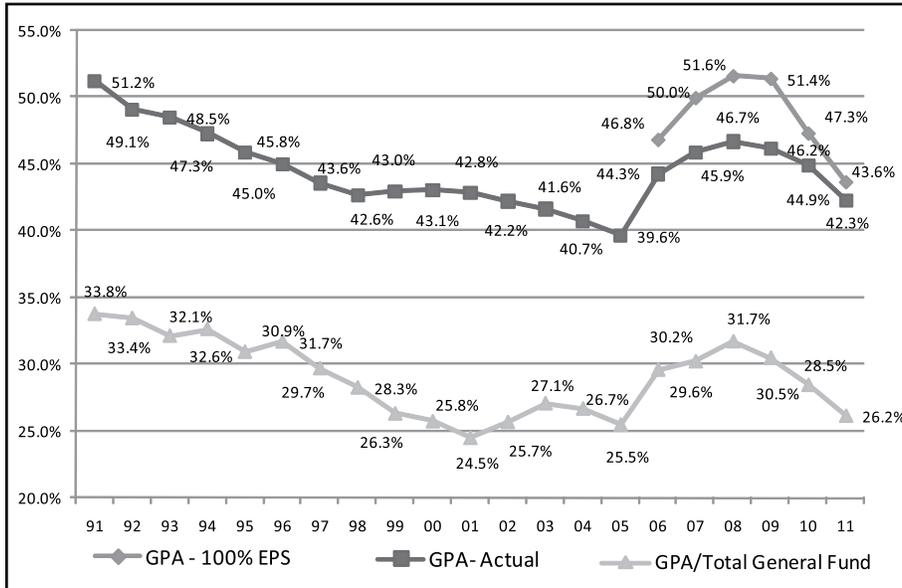
It seems the state's financial capacity has retreated to a previous decade.

Of particular municipal interest, the RFC report predicts that municipal revenue sharing will experience an \$11 million, 8.7% reduction during this fiscal year compared to the projection last spring upon which the State Treasurer's revenue sharing projections were based. Similar, additional reductions in revenue sharing are now predicted for next year as well (FY 2011). As municipal officials well remember, the Legislature decided last spring to add on to the "natural" reductions in revenue sharing that were occurring because of the economy by taking an additional \$44 million in revenue sharing funding over the biennium to prop up the state budget. The fact that revenue sharing resources were shrinking naturally and at the same pace as the state's own revenues were declining didn't stop the Legislature from cutting into revenue sharing even deeper. It's a matter of priorities.

On the same day the RFC members were crunching their numbers, Governor Baldacci issued his \$63 million "curtailment" package, which is an executive order placing limits on state spending in order to keep the state budget from lurching out-of-balance in mid-year. Since the value of the curtailment order (\$63 million) represents just a fraction of the current-year shortfall (\$210 million), it is obviously just a precursor for the state budget

## General Purpose Aid to Local Schools (GPA) vs. Total Actual K-12 Spending and vs. EPS & GPA vs. Total General Fund Expenditure

1991-2011



**Source:** Department of Education - State K-12 Education Spending 1991 - 2011. Maine Municipal Association - Calculation of Local Spending 2010 - 2011. Office of Fiscal and Program Review - Total General Fund Expenditures

**Notes:** FY 2010 and FY 2011 local spending based on 5-year average annual growth rate (FY 04 to FY 08) of 2.1%. FY 2010 and FY 2011 state GF expenditures based on 2-year average annual growth rate (FY 08 and FY 09) of 1.8%. GPA data excludes federal stimulus funding. Includes the \$38 million curtailment cut in FY 2010 funding and DOE recommended \$36 million cut in FY 2011.

cuts yet to come.

The details of the curtailment, however, may not provide an entirely clear preview of the cuts-to-come. By its very design as an executive (rather than legislative) authority, the Governor's curtailment order is not supposed to be especially targeted or assert its own priorities, eliminate programs or amend state statute. Curtailment orders are stop-gap in nature and crude rather than surgical, so the tea leaves of a curtailment order may not be easy to read.

In short, the proportions of the curtailment order may not predict the proportions of the cuts ultimately enacted by the incoming Legislature. That observation could actually provide some weak solace to K-12 education, which in this first round took the biggest curtailment hit by far.

Fully 60% of the Governor's order for curtailed spending was a \$38 mil-

lion reduction in K-12 public school subsidy for the current school year. The dollar value of the mid-year cuts to each school system are posted on the state's web site. The cuts to education as a policy area didn't stop there. The next biggest line-item cut in the curtailment order after General Purpose Aid for Local Schools (GPA) was a \$6 million cut to the University of Maine system, followed by a \$1.7 million cut to the Community College system. Straight-line proportionality isn't driving these ordered reductions in spending. The Community College system represents 1.8% of the General Fund budget, but will absorb 2.7% of the curtailment. The University of Maine system receives 6.5% of the General Fund budget, but eats 9.5% of the curtailment. The most disproportionate cut of all is focused on subsidy to local schools. GPA represents 32% of the General Fund budget, but

the cut to GPA represents 60% of the curtailment.

For those who may be keeping track, the accompanying graph shows the state contribution to total K-12 spending over the last 20 years as that contribution has been historically measured, and an overlay shows the state share of the Essential Programs and Services (EPS) "total allocation" since the implementation of EPS in 2005. EPS is the school funding model that admittedly doesn't recognize all reasonably-incurred costs associated with providing a public school education, and generally runs a couple of hundred million dollars less than total actual spending on a statewide basis. As the graph demonstrates, the famous "ramp-up" to 55% enacted in 2005 in response to the "Question 1A" directive from the voters is now "ramped-down" towards its starting point. The state share of public education is quickly dropping down to the historically low levels that existed prior to the voters' directive that the state provide 55% of that funding out of broad-based taxes...a voter-adopted policy some legislators now want to repeal.

That same graph also shows the 20-year trend of GPA as a percent of the state's total General Fund budget. The same trend exists by that measure as well. In the early 1990s, GPA represented nearly 35% of the General Fund budget, but 10 years later school funding commanded just a 25% General Fund priority. The 55% directive adopted by the voters as Question 1A in 2004 precipitated an increase in the GPA priority, but not to the pre-existing priority level it held in the late 1980s and early 1990s. The latest round of budget cuts is causing that priority indicator to slip back below the 30% level.

The next step in the process will be the submission of the Governor's proposed supplemental budget, details of which are scheduled to be released on December 18th. That document will not be constrained by the limitations of the curtailment authority, so it should fully address the size of the budget gap identified by the Revenue Forecasting Committee for both this fiscal year and next, and provide the Governor's vision of a leaner state government going forward. [m](#)

# Carryover Bills: A Status Report

By Geoff Herman and Jeffrey Austin,  
State and Federal Relations, MMA

After the General Election in any odd-numbered year in Maine, the sky is the limit for the freshly-elected lawmakers; they can submit to the Legislature for consideration all the proposed new laws they want. Under Maine's Constitution, however, legislative sessions in the even-numbered years like the one upcoming are limited as to both scope and duration, and proposed law from just five sources can be taken up by lawmakers. Those sources (or subject areas) are: (1) matters related to the state budget; (2) bills of the "Governor's call"; (3) "emergency" legislation allowed into the session by legislative leadership; (4) study bills or other legislation "carried over" from the 2009 legislative session; and (5) legislation initiated through the citizens' initiative process.

This article focuses on the fourth category, carryover and study bills of municipal interest that were submitted to the Legislature a year ago but where final action was deferred (for a variety of reasons) until this upcoming session. The article also attempts to update municipal officials on significant developments in the regulatory arena. Municipal officials are only too well aware that state agency regulations adopted in the State Office Building can deliver just as sharp an impact on local government as the laws enacted in the State House.

The June 2009 edition of the *Maine Townsman* identified 32 carryover bills and 18 study bills of municipal interest. What follows is a status report on a dozen of those bills that over the last several months have been advanced at the legislative committee level or by appointed working groups and carry enough impact on local government to warrant special attention. The listing

that follows is our attempt to identify these carryover bills according to the significance of their municipal impact, although that type of prioritization is not a perfect science.

**Motor Vehicle Excise Taxes.** The Taxation Committee reviewed two carryover bills that would restructure the motor vehicle excise tax system. The two bills were carried over because they were "competing measures" to the Question 2 citizen initiative which would have slashed over \$80 million in municipal excise tax revenue. Question 2 was crushed by the voters on November 3rd with a 3:1 vote rejecting the proposal.

One of those bills (LD 588, sponsored by Rep. Don Pilon of Saco) would restructure the system in a revenue-neutral way by flipping the current system and establishing a fixed excise tax rate at 20 mills which each year would be applied to an ever-declining percentage of the motor vehicle's Manufacturer's Suggested Retail Price (MSRP). The goal of this restructuring would be to address the taxpayers' concerns that the current system is based on an artificial value and does not reflect the depreciating value of the motor vehicle being taxed.

The other excise tax bill (LD 195, sponsored by Rep. Gary Knight of Livermore Falls) would leave the current rate structure unchanged, but require the current rates to be applied to just 90% of the MSRP. As written, this bill would reduce municipal excise tax revenue by over \$20 million a year.

Unfortunately, the sponsors have apparently agreed to combine the two bills into a single bill, so that a fixed rate of 20 mills would be applied each year to a MSRP that is twice-reduced. That is, the MSRP would be first re-

duced by 10%, and then the annual percentage reductions of Rep. Pilon's bill would be applied. Therefore, under this combined bill, 20 mills would be applied to 95% of 90% of the MSRP in the first year; 90% of 90% of the MSRP in the second year; 85% of 90% of the MSRP in the third year; 70% of 90% of the MSRP in the fourth year; 50% of 90% of the MSRP in the fifth year; and 15% of 90% of the MSRP in the sixth and all subsequent years.

This bill would reduce each municipality's excise tax revenue by approximately 11%. The statewide municipal impact would be a \$22.4 million reduction in excise tax revenue. The Taxation Committee is scheduled to fully consider and take a final vote on LD 195 and LD 588 at its December 16, 2009 meeting.

**Restructuring Revenue Sharing.** Also in Taxation, Rep. Mike Shaw (Standish) is pushing for the advancement of a carryover bill he sponsored, LD 662, *An Act to Phase Out the Distribution of the Disproportionate Tax Burden Fund under the State-municipal Revenue Sharing Program over a 5-year Period*.

As printed, LD 662 was a "concept draft" bill that would have phased-out the Revenue Sharing II distribution over a 5-year period and returned the entire municipal revenue sharing system to the original "Rev I" distribution. That idea has been rejected, but Rep. Shaw has indicated that the printed bill didn't properly reflect the real goal, which from his perspective was to target the "Rev II" distribution to those municipalities truly deserving the supplemental distribution, rather than just any municipality with a full value mill rate over 10 mills. Rep. Shaw's position is that some municipalities have

higher-than-average mill rates out of choice (and household-income capacity) rather than necessity and those wealthier municipalities do not deserve to receive Revenue Sharing II.

On November 10th, the Tax Committee agreed to give Rep. Shaw one more month to provide the Committee with enough detail so that an actual bill restructuring the Revenue Sharing distribution system could be written. A subcommittee of the Taxation Committee was created to oversee that process, including Rep. Kathy Chase of Wells, Senator Richard Nass of Acton, Rep. Elsie Flemings of Bar Harbor, Rep. Shaw, MMA, and the Office of Fiscal and Program Review (OFPR). The role of both MMA and OFPR on this subcommittee is to perform the purely technical task of analyzing the fiscal impacts of the subcommittee's recommendations.

As ultimately crafted by the Taxation Committee subcommittee, LD 662 would:

1) Replace the current threshold for being a "Rev II" recipient (which is a municipality with a full-value tax rate over 10 mills) with a new threshold, which is being either a defined "Service Center Municipality" or a defined "Census Designated Place" and having a full value mill rate over 10 mills. There are currently 69 municipalities meeting one or the other of those definitions with the requisite minimum mill rate;

2) Distribute to those newly-defined Rev II recipients almost the total amount of Rev II that is being distributed to them under current law, defined as a percentage of total revenue sharing. Those 69 municipalities currently receive 12% of all revenue sharing through the Rev II distribution. For some reason, Rep. Shaw is proposing that 11% of total revenue sharing would be distributed to them under this proposal.

3) Distribute that Rev II allotment to all 69 Rev II recipients according to the Rev II distribution formula (population x full value mill rate minus 10 mills); and

4) Distribute the remaining 89% of revenue sharing funds to all municipalities under the traditional Rev I distribution formula.

If you would like to obtain the impact analysis of this proposed change, contact MMA's Kate Dufour at [kdufour@memun.org](mailto:kdufour@memun.org) or 1-800-452-

8786. The Tax Committee is expected to give final review and vote on this proposal at its meeting on December 16th.

**Fish Passage and Culverts.** Last spring the Legislature enacted LD 1333, *An Act To Ensure that Replacement Culverts Permit Fish Passage*, which requires the Department of Environmental Protection to amend its permit-by-rule standards under the Natural Resources Protection Act (Chapter 305) in such a way as to require municipalities to achieve "natural stream flow" when installing road culverts. The Legislature believes culverts can pose a barrier to fish as they make their way along a stream. For example, where the bottom of a culvert is higher than the riverbed, fish swimming upstream might not be able to make it up and through the culvert.

The DEP has conducted informal stakeholder meetings along with its formal rulemaking process. The proposed rule requires two significant changes. First, culverts must be embedded in a riverbed and not just laid upon it. Second, the size of the culvert must be proportionate to the size of the river channel at its "bankfull" level.

Because of the amendments, some culverts will need to be so large that the only real option is to construct a bridge or "open-bottom arch" structure. This would dramatically increase costs. In its rulemaking materials, the DEP noted: "*The cost increase between a culvert or*

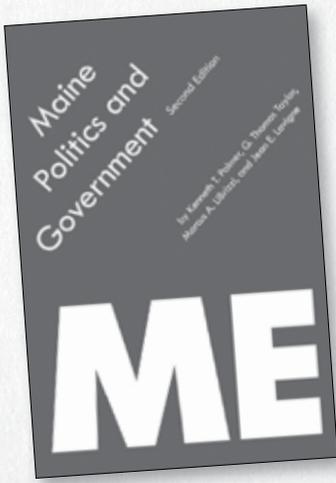
*a bridge crossing cannot be generalized but could in some cases increase a project cost 10 times.*"

Municipal officials and public works officials have expressed concern to the Board of Environmental Protection over the potential increase in costs as a result of the proposed rule. The new culvert rules are "major substantive" and, if supported by the Board, will be reviewed by the Natural Resources Committee and the full Legislature this session.

**Telecommunications Taxation.** The issue of telecommunications taxation grew out of last session's state budget deliberations. There is no bill or carryover bill on the subject, but the Taxation Committee intends to get permission to report out its own bill on this topic.

At issue is the complicated way the state and local taxation of telecommunications equipment and companies has evolved over time, particularly in light of the rapid changes that have made the various companies using different technologies – cable, satellite, Internet, land-line, and wireless – more similar than dissimilar in recent years.

Specifically, the state imposes a property tax on the two-way interactive telecommunications personal property owned or leased by a "telecommunications business". The state-imposed mill rate is currently set at 22 mills. There is about \$830 million worth of telecom-



**Maine Politics and Government, Second Edition**  
KENNETH T. PALMER, G. THOMAS TAYLOR, MARCUS A. LIBRIZZI, AND JEAN E. LAVIGNE  
Remote and thinly populated, Maine was long insulated from many of the demographic and economic trends of states to the south. *Maine Politics and Government* traces recent changes in the state's system as agriculture, manufacturing, and maritime trades have ceded dominance to high-tech businesses, extensive commercial development, and an expanding governmental sector.  
**\$30.00 paperback**  
POLITICS AND GOVERNMENTS OF THE AMERICAN STATES SERIES

UNIVERSITY OF NEBRASKA PRESS | WWW.NEBRASKAPRESS.UNL.EDU  
800-848-6224 • publishers of Bison Books

munications property subject to the state property tax, which generates \$18.3 million in revenue for the state.

All one-way, non-interactive telecommunications property and all other telecommunications personal property that is not owned by a "telecommunications business" is taxed as personal property at the local level at the prevailing local mill rate, which is often much lower (at full value) than 22 mills.

At the same time, all types of telecommunication service providers are subject to a 5% "service provider" tax, which is applied to the value of their services rather than the value of their property. The aggregate value of those services among all the different providers is apparently in the \$760 million range, because the 5% tax generates approximately \$38 million a year for the state.

An issue is how this tax structure falls unevenly among the various providers. For example, constitutionally problematic inequities have even been raised with respect to the unequal application of property taxes between the state and local jurisdictions for substantially similar machinery and personal property.

As a result, the Committee is attempting to restructure the system of telecommunications taxation with the goal of making the tax burden spread out more evenly among the various telecommunications providers. No final plan has been articulated as of yet, but part of that plan could involve repealing the state's property tax on telecommunications property and replacing the \$18 million in lost revenue by increasing the rate of the service provider tax. What is currently under consideration is whether to allow municipalities to expand their taxable base by now including within it the two-way telecommunications property which has heretofore been exempt from local taxation.

The Tax Committee is expected to provide more detail on this proposal at its December 16th meeting.

**Elderly Tax Deferral Program.** As originally submitted, LD 1088 (sponsored by Rep. Kathy Chase of Wells) would re-instate the elderly tax deferral program that was established in state law in the 1980s and discontinued in the early 1990s. In summary, that program allowed qualified elderly, low-income homesteaders to apply to the

state in order to defer their municipal property tax obligation. Instead of paying their taxes to the town or city, the state would pay their taxes, and the state would get a lien on their property to cover its exposure plus 6% interest. That lien would foreclose when the property is subsequently transferred. Although the program was not heavily utilized, no new applicants were accepted by the state in the early 1990s due to budgetary constraints.

At the Taxation Committee meeting in November, Rep. Chase said that the state's current budgetary constraints make it impossible for her to further advance the bill as written. Therefore, she has rewritten the bill in two ways.

First, additional eligibility restrictions would be established. An eligible applicant would need to be at least 70 years of age, have lived in the homestead for at least 10 years, and the household income could not exceed 300% of the federal poverty level. The value of the deferred taxes would be subject to a 6%-per-annum interest rate.

Second, since the state cannot afford to cover the program, the deferral system would be made a "local option" program; that is, the state law would establish the program's parameters, but the program would only be implemented locally if approved as a "local option". The municipality would cover the cost of the tax loss during the

period of deferral and would have to manage the extended tax lien and lien foreclosure process.

The Tax Committee is expected to vote on this proposal at its December 16th meeting.

**Site Law.** Another carryover bill is LD 891, *An Act To Amend the Site Location of Development Laws To Include Consideration of Greenhouse Gas Emissions*. LD 891 was carried over from the first session to the second session of the 124th Legislature. It would amend the Site Location of Development Act standards to include requirements that greenhouse gas emissions from new projects either be limited or "offset" by the payment of a fee or other mitigation options. MMA did not closely follow this legislation last session as it mainly dealt with the relationship between the state and the development community.

However, the DEP has simultaneously begun pre-rulemaking work on rules associated with Site Law and one in particular may interest municipalities. Chapter 375 is the "no adverse environmental effect" standard enforced by DEP.

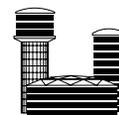
The proposed amendments significantly expand the DEP's environmental purview over "scenic" impacts. For example, under the proposed rule the DEP will determine if a project interferes with "the general public's visual enjoyment and appreciation of a scenic

## SITWORK... It's Not FREE!



- Aquastore ENVIRONMENTALLY friendly tanks are manufactured in an ISO-9000 factory.
- They don't require massive staging areas to manufacture on site.
- They don't require cutting down the forest to make room for 'onsite manufacturing'.
- 10' perimeter or less around the tank is all that needs to be cleared.
- Get a substantial saving in sitework over field manufactured tanks.
- The trees do grow back, but why cut them down in the first place?
- No need to inflate your project costs with unnecessary sitework.

6010 Drott Drive • E. Syracuse, NY 13057  
800.H2O TANK (426.8265) • [www.besttank.com](http://www.besttank.com)



New England Tank, Inc.  
**STATEWIDE**  
AQUASTORE, Inc.

Premium Water and Wastewater Storage Tanks

resource.” The rule also requires the pitch of a roof to “follow the natural hillside slope.” And Chapter 375, Section 14(C)(2)(d)(ii)(a) says that free-standing accessory structures must be “coordinated” with the principal building through details such as “color.”

Most aesthetic regulatory issues have been historically handled locally and not centrally by the state. Accordingly, LD 891 and related rulemaking may be of interest to municipal officials.

#### **Exempt Personal Property and LD**

**1.** LD 839 would allow a municipality that has a substantial amount of personal property in its tax base (over 5%) to include the value of newly installed personal property in its “property growth factor” calculation (both in the numerator and in the denominator of that calculation) even though that property is now exempt from taxation. LD 839 was a carryover bill because it competed, at least technically, with the Question 4 citizen initiative known as TABOR II. Now that Question 4 has been rejected, the Committee is able to advance LD 839, and the bill received a near-unanimous (11-1) “ought to pass” recommendation from the Committee at its November meeting.

**Dark Skies.** LD 11, *Resolve, To Encourage the Preservation of Dark Skies*, was enacted by the Legislature last spring. This resolve reflects the State Planning Office’s request to review commercial outdoor lighting standards and promote those standards that will limit so-called “light pollution” which is generally understood to be outdoor lighting which interferes with the ability to see the night skies. In response to the Resolve, the State Planning Office has produced a report on the topic. In that report, SPO is recommending that the state should preempt municipal authority and establish a state-level commercial lighting standard in law. SPO is also recommending that municipalities should be mandated to apply and enforce the state-adopted standard. Many municipalities have outdoor lighting standards for commercial development and they generally feel that the local standards balance the issues of light pollution with other public policy interests such as safety.

**Local Option Taxation.** LD 1253 (sponsored by Rep. Patsy Crockett of Augusta) is a local option sales tax bill. As printed the bill allowed a municipal-

ity by referendum vote to adopt a local sales tax of up to 3%, with the revenue to be divided between the municipality (50%) the state (25%) and the county in which the municipality is located (25%). At this point, the bill’s sponsor does not intend to advance the proposal as printed, and the Committee gave her another month to put together the approach to local option taxation that she is now considering. That approach, apparently, would be a county-wide local option sales tax, adopted by a referendum vote throughout the county, with 50% of the revenue accruing to the county and the other 50% being distributed to all the municipalities within the county according to a revenue-sharing type formula. More details of this proposal should emerge at the Taxation Committee’s next meeting on December 16th.

**Climate Change Adaptation.** The Legislature also enacted LD 460 during the last legislative session, under the title *Resolve, To Evaluate Climate Change Adaptation Options for the State*. This Resolve directed the Department of Environmental Protection to convene a stakeholder group made up of representatives of the business community, non-governmental organizations and state government to study the impacts of climate change on built infrastructure and various systems. The study would include coastal and inland flooding effects on roads and facilities, the heat effects in urban centers, beach scouring, the impact on water supplies and drinking water, and emergency response systems. The goal of the study is to develop an “adaptation” strategy. That is, the goal is not to determine how to stop climate change but, rather, how to deal with it. The Department has conducted extensive stakeholder meetings including nearly 100 individuals. The stakeholder discussions have focused on issues such as figuring out where climate change impacts will actually be felt most acutely and what infrastructure owners and others might do to prepare. It does not appear that recommendations coming out of this process will be going in the direction of new mandated requirements.

**Quality of Place Planning.** The original bill was LD 1389, *An Act to Create State and Regional Quality of Place Investment Strategies for High-value Jobs, Products and Services in Maine*. LD 1389 was promoted by the State Planning

Office and the Governor’s Quality of Place Council, and mandated that the state’s six federal “Economic Development Districts” (typically a Council of Government/Regional Planning Commission or similar venture) develop Quality of Place investment strategies. These strategies would identify and inventory regional assets and strengths (rather than needs and wants) and then develop strategies to invest in these assets that contribute to a region’s “quality of place”. The process would be guided, overseen, judged, monitored and reported on by the SPO and the Quality of Place Council.

The mandate “stick” in the bill was accompanied by two vague, but appealing, “carrots.” One carrot was access to “quality of place” bond funds. A second carrot was that additional preference points for state grants would be awarded to projects that were identified in these regional investment strategies.

The second carrot was particularly appealing because it represented a potential to fundamentally alter grant making from a completely state-controlled exercise to one where local preferences would be elevated, as long as those locally-identified preferences were included in regional plans. The bill was held over because the State Planning Office could not identify at the time of the hearing which state grants would include these preference points and how many points would be awarded. Also, the “quality of place” bond didn’t exist at the time of the public hearing, even in bill form. When the bill was carried over, the expectations were that SPO would rewrite the bill to remove references to the bond and that specific state grant programs would be identified.

Instead, both the bond revenue and the preference points have been completely stripped from the bill. It appears that the state will be offering no benefits to regions that develop these “quality of place” planning documents. Correspondingly, the bill no longer mandates that these plans be done. Thus, both the stick and the carrot appear to be gone. The Business Research and Economic Development Committee endorsed the bill in November, apparently in response to testimony from SPO and other proponents that there is significant federal money poised to be granted to Maine if this legislation were enacted. [\[m\]](#)



Serving the people and  
municipalities of Maine

## Smart Financing Alternatives



Toby Cook  
President



Bruce Thistle  
Senior Vice President

**Gorham Leasing Group** can help you take advantage of today's smartest equipment financing options. With more than 20 years of experience in municipal leasing, we offer in-depth knowledge of cities, towns and schools in our region. Our team has worked with many communities and school departments to design leasing programs that are simple, convenient and cost-effective. Talk with us soon about financing alternatives that will work for your community.

Portland, Maine | **1-800-924-2948**  
[www.gorhamsavingsbank.com](http://www.gorhamsavingsbank.com)

**Gorham**  
LEASING GROUP

A Gorham Savings Bank Company

## Your Public Finance Partner



Richard J. Ranaghan  
Senior Vice President  
Public Finance

The **Gorham Savings Bank Public Finance Team** is committed to helping your municipality grow and prosper. As your financial services partner, we will take the time to understand your unique challenges and to help you choose the products and services that best meet the needs of your city or town. Southern Maine communities have depended on the financial strength and expertise of Gorham Savings Bank for over 138 years. Talk with us soon about your public finance needs.

Portland, Maine | **1-207-222-1488**  
[www.gorhamsavingsbank.com](http://www.gorhamsavingsbank.com)

**Gorham**  
SAVINGS BANK

Feel more connected.™

## 2010 SPRING BOND ISSUE SCHEDULE

Capital financing through the Bond Bank's General Bond Resolution Program allows borrowers to take advantage of the Bond Bank's high investment grade rating, low interest rates and reduced issuance and post issuance costs. Traditionally twice a year, in the spring and fall, the Bond Bank will consolidate eligible applicants and engage in a bond sale. From application to receipt of funds the bond issuance process usually lasts three to four months. Below is the schedule for the Bond Bank's Spring Issue.

FEBRUARY						
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

MARCH						
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

APRIL						
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

MAY						
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

### Wednesday, February 3rd

Application Deadline.

### Wednesday, March 10th

Application approval (Board Meeting).

### Tuesday, April 6th

Preliminary opinions and loan agreements due from bond counsel of each borrower.

### Friday, April 9th

Last date for signing school contracts and rates in place for water districts.

### Monday, April 26th & Tuesday, April 27th

Maine Municipal Bond Bank Pricing.

### Wednesday, April 28th

Maine Municipal Bond Bank Sale Meeting (Board Meeting).

### Tuesday, May 18th

Final documents due from bond counsel.

### Wednesday, May 26th

Pre-Closing.

### Thursday, May 27th

Closing - Bond Proceeds Available (1:00 PM)

If you would like to participate in or have any questions regarding the 2010 Spring Bond Issue, please contact Michele Sucey at 1-800-821-1113, (207)622-9386 or mls@mmbb.com.



# Municipal Impact Bills

By Kate Dufour, Legislative Advocate, MMA

Maine's lawmakers asked their leadership for permission to introduce 372 bills to the Legislature in January. The Legislative Council allowed 159 bills to advance, representing 43% of the bills submitted.

Although it is widely acknowledged that most of the Legislature's attention in the 2010 session will be on budget matters, some of the proposed non-budgetary legislation could impact municipalities in various ways. The precise degree of impact is not entirely known because the only information available at this stage in the process is the bill's title and a narrative description of its contents. On the basis of that information, about 40% of the bills allowed into the session by legislative leadership will affect local government somehow. It is fair to say that from this vantage point the 60-plus bills of municipal interest do not propose earthshaking changes either to the advantage or disadvantage of local government.

What follows is a list and brief description of the most significant municipally-relevant bills, according to certain categories. At the end of this article, listed by title only, are all the other newly-admitted bills that appear to have some municipal relevance. A complete list of the bills that were allowed into the Second Regular Session of the 124th Legislation can be found at:

[http://www.maine.gov/legis/lio/2009Lists/accepted\\_2010.pdf](http://www.maine.gov/legis/lio/2009Lists/accepted_2010.pdf)

For the purpose of this listing, the bills are grouped in six categories: (1) administration, (2) labor, (3) taxation, (4) environment, (5) public safety, and (6) the citizen initiative process. As is the case every session, a number of community-specific bills, such as

utility district charter changes, will be introduced. These bills are found in the list at the end of the article.

## Administration

*An Act To Further Regulate the Communications of Members of Public Bodies (Rep. Dostie of Sabattus).* This bill would establish that group e-mail communications among members of a public body are improper public proceedings. The bill prohibits members from sending group e-mails if the group constitutes a majority of members. The bill also prohibits an individual who is a member of a public body and who has learned, through a series of one-on-one communications with other members of that public body, that a majority of the members are in agreement on a particular topic from using that information by conveying it to third-parties with an interest in the topic unless the agreement has been previously rendered or effected at a public proceeding.

*An Act To Authorize Municipal Officers To Resolve Road Naming Disputes (Rep. Magnan of Stockton Springs).* This bill would authorize municipal officers to make the final decision when there is a dispute in the naming of a town road, private way or private road for E-9-1-1 purposes.

*An Act To Clarify the Informed Growth Act (Rep. Beaudette of Biddeford).* This bill would amend the Informed Growth Act. It clarifies that a change of use permit is not considered a land use permit under the Act and that the Act applies only to new construction. In addition, the bill seeks to clarify how the municipal reviewing authority is to evaluate and consider the enumerated criteria in the comprehensive economic impact study.

*An Act To Streamline Collections for Consumer-owned Consolidated Water and Wastewater Utilities (Rep. Fitts of Pittsfield).* This bill would allow consumer-owned consolidated utilities to disconnect water service for nonpayment of sewer charges.

*An Act To Allow Minor Capital School Improvement Projects To Be Permitted Costs under Essential Programs and Services (Rep. Rotundo of Lewiston).* This bill would allow the cost of minor capital school improvement projects, such as the replacement of windows, a boiler or a roof, to be a permitted cost under the Essential Programs and Services school funding model.

*An Act To Authorize Sanitary Districts To Waive an Automatic Sanitary District Lien Foreclosure (Rep. Chase of Wells).* This bill would provide the option for sanitary districts to waive the automatic foreclosure of a sewer lien in the same way as municipalities may currently waive automatic foreclosure of a tax lien.

*Resolve, To Repeal the Fee Increase for Copies of Vital Records (Sen. Raye of Washington Cty.).* This resolve would repeal the 400% fee increase for copies of death and birth certificates and other documents kept by the Office of Vital Records within the Department of Health and Human Services, Maine Center for Disease Control and Prevention, Office of Health Data and Program Management.

*An Act To Facilitate the Establishment of Watershed Districts (Rep. Eberle of South Portland).* This bill would clarify that the watershed district law is one way of establishing a district and that alternatively one or more municipalities may create a watershed management district under municipal home rule authority or under interlo-

cal cooperation authority.

### Labor

According to 2008 Maine Department of Labor employment statistics, local governments, including schools, employ nearly 61,000 workers, representing 10% of the state's workforce. As employers, bills seeking to amend labor laws often impact municipalities. This session, the Legislature will be debating the merits of four labor-related bills that could have an impact on municipalities.

*An Act To Prevent the Spread of H1 N1* (President Mitchell of Kennebec Cty.). This bill would require a large business employer to give 52 accrued paid sick hours per year to an employee and a small business employer to give 26 accrued paid sick hours per year to an employee. Earned paid sick time may be used by an employee during an absence from employment for illness of an employee or illness of an employee's family member, for accessing necessary preventative health care or if the employee or the employee's family member is a victim of stalking, domestic violence or sexual abuse.

*An Act Regarding Accidental Death Benefits for Beneficiaries of Deceased Firefighters* (Sen. Jackson of Aroostook Cty.). This bill would provide an accidental death benefit to the beneficiary of a firefighter who dies from cardiovascular or pulmonary disease as described in the Maine Revised Statutes, Title 39-A, section 328. This bill would apply only to municipal firefighters who are members of a Participating

Local District retirement program administered by the Maine Public Employees Retirement System. This bill would provide an accidental death benefit and not a disability benefit to the beneficiary of a firefighter who dies in the line of duty.

*An Act To Amend the Unemployment Compensation Laws Regarding Vacation Pay* (Speaker Pingree of North Haven). Under current law, an indi-

**WE ARE GROWING...**  
*To better serve our clients in Southern Maine*



**AUBURN**



**BAR HARBOR**



**MACHIAS**



**PRESQUE ISLE**



**BREWER**



**CES INC**

Visit us at [ces-maine.com](http://ces-maine.com)  
**Auburn (207) 376-3140**  
**Brewer (207) 989-4824**

ENGINEERING • SURVEYING • PLANNING • SCIENCES



# VISION APPRAISAL

Proven, Trusted, Professional

## Serving New England with a Proven Team of Appraisal and Technical Professionals

- » **Integrated Technology** and Appraisal Expertise
- » **Over 120 Employees** to serve New England Assessors
- » **Customer Support** with Same Day Turnaround, Annual User Group, monthly training classes
- » **Web Based Public Access** to Assessing Data and On-line Client Forum



More than 30 years providing power and flexibility in CAMA software for the New England area

Call us today at **800.628.1013** ext 2  
[www.visionappraisal.com](http://www.visionappraisal.com)

vidual is disqualified from receiving unemployment compensation benefits for any week in which the individual receives, is entitled to receive, or has received remuneration in the form of vacation pay. This bill would remove that restriction.

*An Act To Ensure Equity in Unemployment Compensation Claims* (Rep. Beaulieu of Auburn). This bill would clarify the definition of "employer" for unemployment compensation purposes to address the situation of two part-time employers who both lay off the same employee within a few days or simultaneously. Both employers would be considered the claimant's last employer for purposes of the laws governing unemployment compensation.

### Taxation

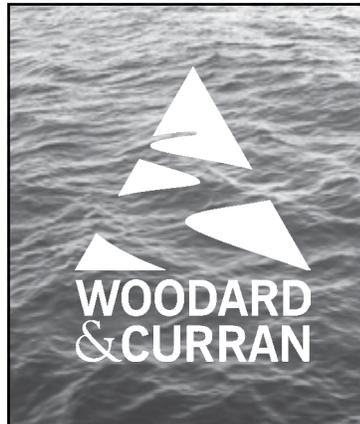
*An Act To Avoid Unnecessary Removal of Land from the Tree Growth Tax Law Program* (Rep. Watson of Bath). This bill would give landowners who fail to meet the filing deadline for recertification for participation in the tree growth tax program one year to comply while keeping the land enrolled. The bill would establish the tax payment for a

one year grace period according to fair market value and the landowner would pay the higher tax rate and a penalty for this grace period if the land is removed from the program.

*An Act To Increase the Affordability of Renewable Energy for Homeowners and Small Businesses* (Rep. Crockett of Augusta). This bill would permit municipal governments to offer long-term financing of solar and wind electric generation systems through a property tax lien financing program.

*An Act To Improve Employment Opportunities for Maine Workers in the Forest Industry* (Rep. Martin of Eagle Lake). This bill would define bonded laborers, curtail tree growth tax benefits for owners of land who allow bonded laborers to harvest on that land and further would impose on any such owner liability for full payment of the commercial forestry excise tax on any such land in excess of 500 acres.

*An Act To Modify the Maine Tax Code To Support Renewable Energy* (Rep. Piotti



An integrated engineering, science & operations firm serving public & private clients locally & nationwide.

- water & wastewater engineering
- civil/site engineering
- solid & hazardous waste
- training & operations
- facilities & master planning
- stormwater management & planning
- GIS/asset management

COMMITMENT & INTEGRITY DRIVE RESULTS | 800.426.4262 | woodardcurran.com



## Transform Information into **ACTION**

**Working with communities for:**

- ✓ **fiscal, economic & demographic analysis**
- ✓ **service planning, evaluation, and process improvement**
- ✓ **economic development**
- ✓ **tax increment financing**
- ✓ **GIS/geospatial analysis**

**Where is the most strategic location for your fire stations?**

PolicyOne is working with the City of Lewiston to assess fire station location for capital improvement planning

**Find out how PolicyOne can help you**

MMA-09

**www.PolicyOneResearch.com info@PolicyOneResearch.com 207-510-6055**

of Unity). This bill would adjust the method by which Maine communities assess taxes on new renewable energy projects in order to better benefit the region in which those projects are located.

### Environment

*An Act To Expand Eligibility of Certain Municipal Landfills To Participate in the State's Remediation and Closure Program* (Rep. Johnson of Greenville). This bill would allow a small number of additional open municipal landfills that were allowed by the Department of Environmental Protection to remain open after January 1, 2000 to become eligible for the State's remediation and closure program.

*An Act To Provide Leadership Regarding the Responsible Recycling of Consumer Products* (Rep. Innes of Yarmouth). This bill would establish a stewardship program for consumer products that addresses the life cycle impacts of a product and oversees the collection, transportation and reuse, recycling or disposal of unwanted products.

*An Act To Update and Modernize Maine's Floodplain Mapping* (Rep. Legg of Kennebunk). This bill would provide funding to attract federal grant funding to update and modernize the state's floodplain maps. The bill would direct \$250,000 per year for 3 years in state funds to support topographical floodplain mapping.

### Public Safety

*An Act Concerning Statewide Communications Interoperability* (Rep. Crockett of Augusta).

This bill would require that the statewide radio network under construction be available to other units of government without the need for other units of government to purchase new radios, or that a portion of the proceeds of the bond issue paying for the statewide radio network be allocated to local units of government for the purchase of radio equipment necessary for them to communicate on the new network.

*An Act To Amend the Law Pertaining to Smoke Detectors and Carbon Monoxide Detectors* (Sen. Diamond of Cumberland Cty.). This bill would clarify when and where smoke detectors and carbon monoxide detectors must be used.

*An Act To Establish Emergency Zones*

(Sen. Trahan of Lincoln Cty.). This bill would designate an area where emergency personnel are assisting an injured person as an emergency zone and would add that area to the list of mandatory reduced speed zones, such as construction zones.

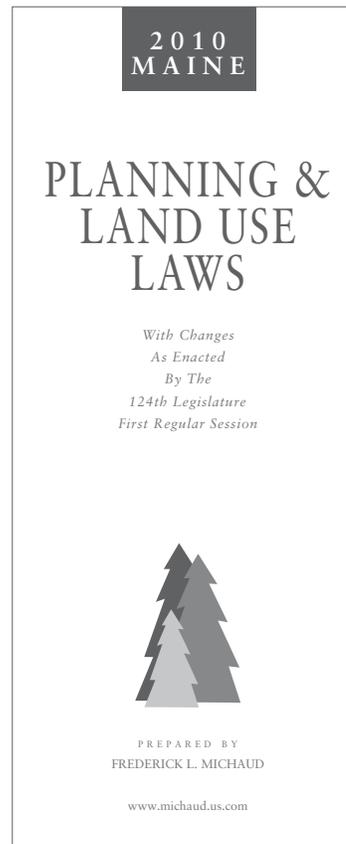
### Citizen Initiative Process.

Maine is unmistakably trending toward increased "government by referendum". During the first half of the 20th Century, there was one citizen initiative in Maine each decade, on average. The average over the last decade is two citizen initiatives per year,

and no less than four citizen initiatives were decided by the voters on November 3, 2009. There could be as many as five citizen initiatives on the ballot in 2010. Perhaps as a result of the rapid growth in utilization, procedural issues regarding the initiative process will be debated by the Legislature in 2010.

*An Act To Prevent Predatory Signature Gathering and To Strengthen the Citizen Initiative and Peoples' Veto Process* (Rep. Berry of Bowdoinham). This bill would allow a person to have the person's own signature removed from a citizens' initiative or peoples' veto

## NOW AVAILABLE



\$19.00 PER COPY PLUS 95¢ SALES TAX

OR

\$17.50 PER COPY PLUS 5.0% SALES TAX FOR 5 OR MORE COPIES

Municipalities, Government Agencies and Tax-Exempt Organizations (ID# Required)

May Omit the Sales Tax

Check or Money Order To:

**FREDERICK L. MICHAUD**

P.O. BOX 4667

AUGUSTA, MAINE 04330

[www.michaud.us.com](http://www.michaud.us.com)

petition, if the request is made in writing to the Secretary of State, indicating that the person was given incorrect information.

*An Act To Strengthen the Ballot Initiative Process* (Sen. Nutting of Androscoggin Cty.). This bill would add a \$1,000 fine if a person is proven to have violated the state law governing the gathering of signatures for a citizens' initiative. The bill would also make it illegal for circulators who have been convicted of fraud or forgery to circulate petitions. The bill would require petition circulating companies to register with the state.

*RESOLUTION, Proposing an Amendment to the Constitution of Maine To Amend the Requirements Governing Direct Initiatives Process* (Rep. Cain of Orono). This constitutional resolution would propose that the Constitution of Maine be amended to require that citizen initiatives be subject to the general legislative rules applied to other legislation, including fiscal notes.

**Agency Bills.** In addition to the bills approved by the Legislative Council, lawmakers will also be addressing the 75 bills submitted by 16 state agencies. Although bills submitted by leg-

islators in a second session are subject to a review by the Legislative Council, agency bills are not. The submission of a state agency bill is at the discretion of the Governor.

If it is difficult to determine the significance of a bill submitted by a legislator on the basis of its title and brief description, then it is just short of impossible to determine the impacts of a bill title submitted by a state agency. As a general rule, second-session state agency bills are "housekeeping" bills

in nature, which attempt to correct minor or technical problems associated with existing programs or recently enacted laws. It is not beyond the realm of possibility, however, to find major policy changes embedded within second session state agency bills. At this stage in the process, it cannot be determined with certainty whether the following state agency bills will have an impact on municipal government. More will be known when the printed bills are released to the general public.

**Recognized for Engineering Excellence.**

**Selected for Service & Value.**



**WRIGHT-PIERCE** 

Engineering a Better Environment

Water  
Wastewater  
Infrastructure

Serving New England  
for Over  
**60**  
Years

Offices throughout New England | 888.621.8156 | [www.wright-pierce.com](http://www.wright-pierce.com)









# ONE NAME STANDS BEHIND ALL THE OTHERS.

Milton



[www.miltoncat.com](http://www.miltoncat.com)

Scarborough, ME • 207-883-9586  
Brewer, ME • 207-989-1890

A complete list of the state agency bills can be found at:

<http://www.maine.gov/legis/lisio/2009Lists/agencybillsbysubject2010.pdf>

**Agriculture, Conservation and Forestry**

- An Act To Amend the Animal Welfare Laws.
- An Act Concerning Litigation Brought by the Attorney General To Enforce Provisions of the Forest Practices Laws.

**Education and Cultural Affairs**

- An Act To Fully Implement School Administrative Unit Reorganization.
- An Act To Amend Provisions of the Essential Programs and Services Funding Act.

**Judiciary**

- An Act To Amend the Laws Relating to Government Records.

**Legal and Veterans Affairs**

- An Act To Improve Access to Data in the Central Voter Registration System.
- An Act To Amend the Election Laws and Other Related Laws.
- An Act to Facilitate Voting by Uniformed Service and Overseas Voters.

**Taxation**

- An Act Concerning Technical Changes to the Tax Laws.
- An Act To Amend the Tax Laws.

**Utilities and Energy**

- An Act To Resolve the Conflicts in the Laws Governing Surcharge for the E-911 System.

Finally, here are the other municipally relevant bills admitted to the second session, described by their title only:

- An Act To Amend the Laws That Provide an Exemption for Agricultural Guard Dogs from Municipal Ordinances Governing Barking Dogs (Rep. Strang Burgess of Cumberland).
- An Act To Streamline the Renewal Process for a Permit To Carry a Firearm (Rep. Pratt of Eddington).
- An Act To Increase Maine's High School Graduations Rate (Sen. Alfond of Cumberland Cty.).
- An Act To Establish a Silver Alert Program (Rep. Roundo of Lewiston).
- An Act To Prevent the Spread of Eastern Equine Encephalitis (Rep. Piotti of Unity).
- An Act To Allow Deer Hunting with Shotguns Only in Owls Head During Firearms Season (Rep. Mazurek of Rock-

land).

- An Act To Prohibit the Use of Personal Watercraft on Wilson Pond (Rep. Johnson of Greenville).
- An Act To Amend the Standards by Which Game Wardens May Stop All-terrain Vehicles when Operating on Privately Owned Lands (Rep. Sarty of Denmark).
- An Act To Ensure That Search and Rescue Dogs Are Afforded the Same Protections and Accommodations as Service Animals (Sen. Gerzofsky of Cumberland Cty.).
- An Act To Create Jobs and Stimulate Economic Development by Making Captive Insurers Eligible for Pine Tree Development Zone Benefits for 10 Years (Sen. Alfond of Cumberland Cty.).
- Resolve, To Protect Information Maintained by Registries (Rep. Treat of Hallowell).
- An Act To Provide Continued Protection Benefits for Retirees of the Maine Public Employees Retirement System (President Mitchell of Kennebec Cty.).

- An Act To Authorize the Issuance of "Stop Work" Orders if a Construction Contractor or Subcontractor Has Knowingly Misrepresented the Classification of Employees (Rep. Martin of Eagle Lake).
- An Act Regarding Maine Public Employees Retirement System Life Insurance (Sen. Hobbins of York Cty.).
- An Act Regarding the Sale of Malt Liquor from a Mobile Service Bar on a Golf Course (Sen. Perry of Penobscot Cty.).
- Resolve, To Transfer the Ownership of the Bath Armory to the City of Bath (Sen. Goodall of Sagadahoc Cty.).
- An Act To Protect the Environment and Natural Resources of the State by Regulating the Discharge of Certain Substances into the Environment (Rep. Flaherty of Scarborough).
- An Act Concerning Fees for Documents at the County Registry of Deeds (Rep. Crockett of Augusta).
- An Act To Amend the Somerset County Budget Procedure (Rep. Curtis of Madison).

**OLVER ASSOCIATES INC.**  
**ENVIRONMENTAL ENGINEERS**

<ul style="list-style-type: none"> <li>• Wastewater Process Engineering</li> <li>• Treatment Facility Upgrades</li> <li>• Sewer Infrastructure Design</li> </ul>	<ul style="list-style-type: none"> <li>• Stormwater Management</li> <li>• Operations Assistance &amp; Training</li> <li>• Municipal &amp; Civil Engineering</li> </ul>
P.O. Box 679 290 Main Street Winterport, Maine 04496	
Telephone: (207) 223-2232 Fax: (207) 223-5448	

**SERVICE ORIENTED PROFESSIONAL ENGINEERING FOR MAINE.**

*DIRIGO ENGINEERING*

◆ Engineering Studies	◆ Design	◆ Contract Admin.
◆ Funding Assistance	◆ Permitting	◆ Const. Monitoring
◆ Topographic Surveys	◆ Bidding	◆ Contract Operations

"SERVICE FIRST" ALWAYS





Water Supply / Wastewater / Stormwater / Site Development / Environmental / Highway Design / Solid Waste

Fairfield, Maine / (207) 453-2401 / [www.dirigoengineering.com](http://www.dirigoengineering.com)

• *Resolve, To Promote Efficiency and To Streamline Access to the Maine Residents Property Tax Program for Seniors, People with Disabilities and Working Families with Low Incomes* (Rep. Crockett of Augusta).

• *An Act To Encourage Extended Stays in Maine Waters* (Rep. Cushing of Hampden).

• *Resolve, To Name a Bridge in North Berwick the North Berwick Veterans Memorial Bridge* (Rep. Eves of North Berwick).

• *Resolve, To Name the New Bridge over Gilman Stream in New Portland the Joshua Bernard Memorial Bridge* (Rep. Pinkham of Lexington Township).

• *An Act To Dedicate Surplus Transportation Funds to Highway Maintenance and Paving* (Sen. Courtney of York Cty.).

• *An Act To Reduce Road Noise within Posted Areas* (Rep. Strang Burges of Cumberland).

• *An Act To Regulate the Use of Traffic Surveillance Cameras* (Sen. Damon of Hancock Cty.).

• *An Act To Designate Funds from the Highway Fund to the Highway and Bridge Light Capital Program* (Rep. Browne of Vassalboro).

• *An Act To Raise the Indebtedness Limit of the Eagle Lake Water and Sewer District* (Rep. Martin of Eagle Lake).

• *An Act To Establish a Broadband Policy for Maine* (Rep. Flaherty of Scarborough).

• *An Act To Amend the Laws Governing Noise Limitations on Wind Turbines* (Speaker Pingree of North Haven).

• *An Act To Amend the Charter of the Dexter Utility District* (Rep. Thomas of Ripley).

• *An Act To Create the Lincolnville Sewer District* (Sen. Weston of Waldo Cty.).

• *An Act To Amend the Charter of the Buckfield Village Corporation* (Rep. Hayes of Buckfield).

• *An Act To Amend the Charter of the Corinna Water District* (Rep. Tardy of Newport).

• *Resolve, Directing the Public Utilities Commission To Adopt Rules To Improve the Safety of Multiunit Rental Dwellings* (Rep. Adams of Portland).

• *An Act To Amend the Charter of the Caribou Water District* (Rep. Edgecomb of Caribou).

• *An Act To Strengthen the Community-based Renewable Energy Pilot Program* (Rep. Adams of Portland). 

## MMA Legislative Policy Committee

### **Senate District 1:**

John Miller, Bd of Assessment Rev, Ogunquit  
(One seat vacant)

### **Senate District 2:**

Douglas Hawkins, Selectman, Parsonsfield  
Martha Hamilton, Selectperson, Limerick

### **Senate District 3:**

John Sylvester, Chair of Selectmen, Alfred  
Maura Herlihy, Councilor, Sanford

### **Senate District 4:**

Larry Mead, Manager, Kennebunkport  
David Flood, Councilor, Biddeford

### **Senate District 5:**

John Bubier, Manager, Biddeford  
Marston Lovell, Councilor, Saco

### **Senate District 6:**

Carol Rancourt, Councilor, Scarborough  
Phil Csoros, Councilor, Gorham

### **Senate District 7:**

Thomas Coward, Mayor, South Portland  
Anne Swift-Kayatta, Councilor, Cape Elizabeth

### **Senate District 8:**

John Anton, Councilor, Portland  
Nicholas Mavodones, Mayor, Portland

### **Senate District 9:**

Daniel Skolnik, Councilor, Portland  
Linda Cohen, Clerk, Portland

### **Senate District 10:**

James Cassida, Councilor, Freeport  
Newell Augur, Appointed LPC Rep., Brunswick

### **Senate District 11:**

Stephen Moriarty, Councilor, Cumberland  
Anthony Payne, Councilor, Falmouth

### **Senate District 12:**

Gordon Billington, Manager, Standish  
(One seat vacant)

### **Senate District 13:**

Russell Newcomb, Chair of Selectmen, Norway  
Leonard Adler, Selectman, Otisfield

### **Senate District 14:**

John Madigan, Jr., Manager, Mexico  
Ruth Marden, Manager, Jay

### **Senate District 15:**

Dana Lee, Manager, Poland  
John Jenkins, Mayor, Auburn

### **Senate District 16:**

Laurent F. Gilbert, Sr., Mayor, Lewiston  
Phil Nadeau, Dep. Administrator, Lewiston

### **Senate District 17:**

Errol "Abe" Additon, Selectman, Leeds  
James Bennett, Interim Manager, Sabattus

### **Senate District 18:**

Richard Davis, Manager, Farmington  
(One seat vacant)

### **Senate District 19:**

Bill Giroux, Manager, Bath  
Pamela Hile, Administrator, West Bath

### **Senate District 20:**

John Anderson, Manager, Boothbay  
William Post, Manager, Waldoboro

### **Senate District 21:**

Mark Doyon, Manager, Manchester  
Elaine Fuller, Selectman, Manchester

### **Senate District 22:**

William Chapman, Selectman, Rockport  
(One seat vacant)

### **Senate District 23:**

Galen Larrabee, Chair of Selectmen, Knox  
James Gillway, Manager, Searsport

### **Senate District 24:**

Ralph Farnham, Jr., Councilor, Oakland  
Michael Byron, Councilor, Augusta

### **Senate District 25:**

Brad Grant, Councilor, Winslow  
John O'Donnell, Councilor, Waterville

### **Senate District 26:**

Elaine Aloes, Chair of Selectmen, Solon  
Janet White, Chair of Selectmen, New Portland

### **Senate District 27:**

John Simko, Manager, Greenville  
Eugene Conlogue, Manager, Millinocket

### **Senate District 28:**

James Schatz, Selectman, Blue Hill  
Michael MacDonald, Manager, Mt Desert

### **Senate District 29:**

George "Bud" Finch, Manager, Eastport  
Norman Nelson, Sr., Selectman, Machias

### **Senate District 30:**

David Whalen, Councilor, Lincoln  
Bill Reed, Manager, Veazie

### **Senate District 31:**

Beth Turner, Selectman, Burlington  
James Smith, Assistant Manager, Brewer

### **Senate District 32:**

Ed Barrett, Manager, Bangor  
Paul Nicklas, Asst. City Solicitor, Bangor

### **Senate District 33:**

Don Carroll, Selectman, Stetson  
Julia Pike, Admin. Assistant, Carmel

### **Senate District 34:**

Thomas Stevens, Manager, Presque Isle  
Martin Puckett, Manager, Chapman

### **Senate District 35:**

Beurmond Banville, Selectman, St. Agatha  
Paul Soucy, Selectman, Eagle Lake

### **LPC Chair:**

Mark Green, Manager, Sanford

# Maine Resource Recovery Association



142 Farm Rd. Suite 2  
P. O. Box 1838  
Bangor, ME 04402-1838  
Telephone 207-942-6772  
Facsimile 207-942-4017  
Email victor.horton@mrra.net or  
john.albertini@nrra.net

Website [WWW.MRRA.NET](http://WWW.MRRA.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@mrra.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**

# A **sweet** suite of products brings our bank to you.

Androscoggin Bank brings the best banking products and the convenience of a branch to your office.

Insured Androsweep is an innovative new sweep account that automatically sweeps anything over your target balance into an investment account that is FDIC insured up to \$12.5 million.

With eDeposit and eBusiness you can scan and deposit checks right from your office. And eStatements keeps your statements secure and organized online.

**Call 1-800-966-9172 today!**  
**Ask about Leasing and Municipay, too!**

## Insured Androsweep

### Safe.

Fully FDIC Insured.  
Need we say more?

### Liquid.

Access to funds  
when needed.

### Rate.

Great rates with  
maximum flexibility.

### Convenience.

Our specialized  
team will make it easy for you.

## eDeposit eBusiness

### Real Time.

Access to real-time account  
information.

### Transfers.

Transfer funds between  
accounts.

### eStatements.

Green, accessible and organized  
access to statements online.

### Convenience.

Checks can be scanned and  
deposited from your office!

[www.androscogginbank.com](http://www.androscogginbank.com)

# AndroscogginBank

Member FDIC •  Equal Housing Lender • SBA Certified Lender

# Highway Simplification Study Underway

By Kate Dufour,  
Legislative Advocate, MMA

In June 2009, the Legislature finally adopted the FY 2010-2011 biennial Highway Fund Budget, which includes a directive instructing the Department of Transportation (DOT) to conduct a *Highway System Simplification Study*.

As enacted, the study charges a working group with examining the current road classification system to determine if the division of maintenance and repair responsibilities over state and local roads needs to be "simplified" in order to improve customer service and investment decisions. The study group is also charged with determining the best construction standards for roadways across the state.

The language of the budget bill specifies the membership of the study group, which includes representatives from DOT, Maine Municipal Association, Maine Chapter of American Public Works Association, Maine Better Transportation Association, Associated General Contractors and the American Council of Engineering Companies. In order to move the study forward, a Policy Work Group and a Sounding Board process have been created.

**Policy Work Group.** The Policy Work Group (PWG) is a 15-member committee made up of municipal, Department of Transportation (DOT) and industry representatives and charged with devising a new system for simplifying the current road classification system. The members of the Policy Work Group include eight MMA appointees and seven DOT appointees. A list of the members is provided in a sidebar to this article.

The PWG is responsible for designing the details of a new state/municipal road classification system, identifying which level of government

should have responsibility for which classification, detailing related roles and responsibilities, and devising possible implementing legislation. The PWG will also explore other alternatives that do not require a shifting of road maintenance and repair responsibilities as well as amendments to the local road assistance program known as Urban/Rural Initiative Program (URIP). The Group will take into consideration and incorporate into their work products the comments, concerns and suggestions of the Sounding Board (see description below).

**Sounding Board.** The 50+ member Sounding Board is comprised of all interested parties; that is, anyone interested in the process is invited to participate in Board meetings. The purpose of the Sounding Board is to vet Policy Work Group recommendations and to provide suggestions, comments and guidance to the members of the Policy Work Group.

All municipal officials and other interested parties are invited to attend future Sounding Board meetings. Any municipal official interested in receiving periodic updates about the work of the PWG and invitations to Sounding Board meetings is asked

to contact MMA's Kate Dufour at [kdufour@memun.org](mailto:kdufour@memun.org) or 1-800-452-8786 for inclusion on the Association's Highway Simplification Study interested parties list.

**PWG Subcommittees.** In addition to the Policy Work Group and the Sounding Board, interested parties will have an opportunity to participate on several subcommittees created by the Policy Work Group. It is expected that five subcommittees will be created and charged with researching: 1) cost and transition impacts; 2) design construction standards; 3) issues facing urban communities; 4) route renumbering; and 5) road classification appeals procedures. The PWG is currently working on this process.

Since the creation of the study by the Legislature, the Sounding Board has been convened once and by the time this edition of the Maine Townsman is printed, the PWG will have been convened twice. To date, the meetings of both groups have been introductory in nature, and focused on providing attendees background information on the scope of the study, state and local road and bridge program revenues and expenditures, and the complexities found in the existing state and federal road classifications

## Providing Maine's Municipalities with:

- Site Planning and Development
- Traffic Impact Studies/Reviews
- Bridge Design
- Planning Board Peer Review
- Road Assessments/Inventory
- Right-of-Way Services
- Aviation Services
- Transportation/Land Use Planning

Serving Maine since 1945

**HNTB Corporation**  
The HNTB Companies  
Engineers Architects Planners

340 County Road, Suite 6-C  
Westbrook, Maine 04092  
Tel: (207) 774 - 5155  
Fax: (207) 228 - 0909  
[www.hntb.com](http://www.hntb.com)

**HNTB**

systems. All of the materials generated for and provided at the PWG and Sounding Board meetings as well as background information on the members of the PWG can be found on the Department's website at the following address: <http://www.maine.gov/mdot/community-programs/hss.php>

It is anticipated that over the next several months, the PWG will start to develop formal recommendations to be shared with the Sounding Board. It is the desire of the PWG to have its final report and any recommendations completed by September of 2010.

This study process could have far-reaching and significant impacts on municipal government. One of the most municipally-significant issues to be addressed in the study will focus on the road inventory and responsibility issue. The crux of the work of the PWG will focus on designing a new "inventory" system that assigns both maintenance and repair responsibilities over a particular class of roads to either the state or the municipality, if it is determined that such a "re-design/simplification" is possible. The intent of the classification redesign is to move away from the system of "shared" responsibilities on roads, particularly as it applies to the state aid road system. As part of the redesign process, the PWG will also develop and recommend changes to the existing state aid for local roads program, known as the Urban/Rural Initiative Program, or URIP. The recommended changes to URIP are to ensure that the program is adequate, both with respect to funding levels and program requirements, to meet any new demands placed on municipalities, if any are recommended through the study process. One recommendation, for example, could be to amend or repeal the current requirement that URIP funds must be used for capital expenses only.

We encourage all interested municipal officials to carefully monitor this process and to provide feedback, comments and suggestions to the Policy Work Group members. If you would like more information about the study, find out how to contact PWG members or to be included on MMA's interested parties list, please contact Kate Dufour (1-800-452-8786 or [kdufour@memun.org](mailto:kdufour@memun.org)).

## Highway Simplification Study Policy Work Group Members

Below is contact information for each person serving on the 15-member Policy Work Group. If you have any concerns about the study or any of the Group's recommendations, please feel free to contact these members at any time. For more background information on the members, please see the member biographies document posted on the Department's website at:

<http://www.maine.gov/mdot/community-programs/documents/hsstudy/memberbios.pdf>

Elwood Beal  
Lisbon Public Works Director  
14 Capitol Ave  
Lisbon Falls, ME 04252  
[ebeal@lisbonme.org](mailto:ebeal@lisbonme.org)

Michelle Beal  
Ellsworth City Manager  
1 City Hall Plaza  
Ellsworth, ME 04605  
[mbeal@cityofellsworthme.org](mailto:mbeal@cityofellsworthme.org)

Robert "Bob" Belz  
Auburn Public Works Director  
296 Gracelawn Rd  
Auburn, ME 04210  
[bbelz@ci.auburn.me.us](mailto:bbelz@ci.auburn.me.us)

David Bernhardt  
MDOT M&O Director  
16 State House Station  
Augusta, ME 04333-0016  
[David.bernhardt@maine.gov](mailto:David.bernhardt@maine.gov)

David Cole  
Gorham Town Manager  
75 South St Suite 1  
Gorham, ME 04038  
[dcole@gorham.me.us](mailto:dcole@gorham.me.us)

Clinton Deschene, Co-chair PWG  
Hermon Town Manager  
PO Box 6111  
Hermon, ME 04402  
[cdeschene@hermon.net](mailto:cdeschene@hermon.net)

Gregory Dore  
Skowhegan Road Commissioner  
225 Water St  
Skowhegan, ME 04976  
[skowpwd@skowhegan.org](mailto:skowpwd@skowhegan.org)

Richard Freethy  
Brooklin Selectman  
PO Box 219  
Brooklin, ME 04616  
[oldson50@gmail.com](mailto:oldson50@gmail.com)

James Hanley  
Pike Industries, Government Affairs  
58 Main St  
Westbrook, ME 04092  
[jhanley@pikeindustries.com](mailto:jhanley@pikeindustries.com)

John Johnson  
Jay Public Works Director  
340 Main St  
Jay, ME 04239  
[jhighway@jay-maine.org](mailto:jhighway@jay-maine.org)

Rob Kenerson, P.E.  
BACTS Director  
40 Harlow St  
Bangor, ME 04401  
[rkenserson@emdc.org](mailto:rkenserson@emdc.org)

Galen Larrabee  
Knox Selectman  
378 Shibles Rd  
Knox, ME 04986  
[gdlarrab@uninets.net](mailto:gdlarrab@uninets.net)

Ryan Pelletier  
St. Agatha Town Manager  
PO Box 110  
St Agatha, ME 04772  
[ryanpelletier@roadrunner.com](mailto:ryanpelletier@roadrunner.com)

John Sylvester  
Alfred Selectman  
PO Box 667  
Alfred, ME 04004  
[alfselectmen@roadrunner.com](mailto:alfselectmen@roadrunner.com)

Bruce Van Note, Co-chair PWG  
MDOT Deputy Commissioner  
16 State House Station  
Augusta, ME 04333-0016  
[Bruce.VanNote@maine.gov](mailto:Bruce.VanNote@maine.gov)

### Policy Work Group Staff

Peter Coughlan  
MDOT Director Community Services  
16 State House Station  
Augusta, ME 04333-0016  
[Peter.Coughlan@maine.gov](mailto:Peter.Coughlan@maine.gov)

Kate Dufour  
MMA Legislative Advocate  
60 Community Dr  
Augusta, ME 04333  
[kdufour@memun.org](mailto:kdufour@memun.org)

# November 2009 Election Results

By Kate Dufour,  
Legislative Advocate, MMA

The results of the November 2009 election are well known by now, and the energy infused into the various campaigns has subsided. The Secretary of State recently published the official voting results, however, and what is remarkable is how uniform across the state the voting results were from county-to-county. On all seven questions on the ballot, generally, there was relatively little distinction in the voting results among the northern, eastern, western or southern Maine regions. That phenomenon was particularly striking with respect to the two questions municipal officials were most closely following: Question 2, the excise tax initiative; and Question 4, TABOR II.

As shown in the table, 74% of the voters statewide rejected the passage of the excise tax initiative. On a county-by-county basis, votes in opposition to Question 2 ranged from 72% (York County) to 77% (Hancock County).

There was a little more geographic variation with respect to the vote on the TABOR II initiative, where 60% of the voters rejected the measure on a statewide basis. On a county-by-county basis, votes in opposition to Question 4 ranged from 55% (Piscataquis County) to 63% (Hancock County).

For countywide and statewide election results for all of the questions on the November 2009 ballot, please see the Secretary of State's website at the following address:

<http://www.maine.gov/sos/cec/elec/2009/referendumbycounty.html>

MMA would like to thank all the municipal officials who worked on both of these campaigns. Without the local level support, the defeat of these initiatives would not have been possible. 

## Countywide Results on Questions 2 and 4

	Q2 Excise Tax		Q4 TABOR II	
	Yes	No	Yes	No
Androscoggin	26.4%	73.6%	44.9%	55.1%
Aroostook	27.5%	72.5%	37.5%	62.5%
Cumberland	27.3%	72.7%	37.8%	62.2%
Franklin	24.5%	75.5%	40.4%	59.6%
Hancock	23.3%	76.7%	36.7%	63.3%
Kennebec	24.9%	75.1%	41.2%	58.8%
Knox	24.3%	75.7%	40.1%	59.9%
Lincoln	24.1%	75.9%	42.7%	57.3%
Oxford	25.3%	74.7%	42.7%	57.3%
Penobscot	24.6%	75.4%	37.7%	62.3%
Piscataquis	24.4%	75.6%	45.3%	54.7%
Sagadahoc	24.1%	75.9%	39.7%	60.3%
Somerset	25.2%	74.8%	43.1%	56.9%
Waldo	23.3%	76.7%	40.5%	59.5%
Washington	24.2%	75.8%	41.2%	58.8%
York	28.0%	72.0%	39.9%	60.1%
<b>Total</b>	<b>25.9%</b>	<b>74.1%</b>	<b>39.9%</b>	<b>60.1%</b>



**Quality maintenance, repair & rebuild  
service for all municipal vehicles.**

### REGIONAL MAINTENANCE FACILITY

534B Portland Street  
Rt. 4  
Berwick, ME 03901

Telephone: 384-4216  
Fax: 384-4291

Operated by the  
Town of South Berwick

Light, Medium & Heavy Duty Trucks,  
Autos & Ambulances

Loaders, Backhoes, Sweepers, Trackless  
& Small Engines

Fire Pump and Aerial Maintenance  
Marine Maintenance and Repair

# Unfunded Liability

By Michael Starn, Editor

Most state and local government public pension systems have an unfunded actuarial accrued liability (UAL). In fact, most state and local government pension systems have a growing UAL that has worsened in the past two years due primarily to the poor return on pension fund investments.

The good news is that the Participating Local Districts (PLDs) component of the Maine retirement system is a fully-funded benefit program, with no UAL.

The bad news is that the state employees and teacher programs of the retirement system are underfunded and state legislators will have to find money to fill the gap.

Maine's UAL for the state worker/teacher retirement system, including future state pension and health insurance liabilities, is about \$6.3 billion, according to State Senator (and Republican gubernatorial candidate) Peter Mills.

Maine's UAL has created a financial conundrum for the upcoming legislative session, and more so, for the legislative session that begins in January, 2011.

State constitutional amendments passed by the State Legislature and Maine voters in the mid-1990s will not allow the state legislature to ignore this UAL issue. Those constitutional provisions require that Maine fully fund its retirement benefits for state employees and teachers by 2028 (*more on this issue later*).

The State's UAL payment for teachers and state employees is about \$223 million for FY 11, according to MainePERS (Maine Public Employees Retirement System). Some state officials are predicting that this number

could double in the following fiscal year.

## WHAT IS A UAL?

The MainePERS website defines "actuarial accrued liability" as: "the present value of the estimated cost of benefits payable to active and retired members covering service rendered prior to the date of an actuarial valuation as determined by use of assumptions about the future and an actuarial cost method". The "unfunded" element of this definition is the extent to which the accrued liability exceeds the assets of the system.

A more simplistic definition of UAL might read, "the degree to which the estimated liabilities exceed the estimated assets of a retirement benefit program". In other words, a UAL is the difference between what a pension or health insurance plan promises to pay and what funds (or assets) have been set aside to fulfill those promises. Of course, those assets will be invested and expected to grow. Liabilities will also change based on the demographics of the retiree population (including any benefit changes). So, a UAL is a moving target, but one that the State is constitutionally-required to fund.

## STATE BUDGET IMPLICATIONS

According to information provided by MainePERS, as of June 30, 2009 the Maine retirement system's one-year investment return was *down* 18.5 percent. Other information from MainePERS reveals that the UAL for the Maine retirement system increased by almost \$1 billion between June 30, 2008 and June 30, 2009 (a 31.6% jump). In round numbers, the UAL (for pensions) went from \$3 billion to \$4 billion [the *higher* the number, the

*bigger* the problem!].

Every two years, MainePERS does a Valuation Report on the funding needed to pay the current benefits of retirees and reduce the UAL. This Valuation Report, done by an actuary for MainePERS, provides a budgetary number that the state legislature must incorporate into its biennial budget. The Valuation Report that impacts the state's FY 12-13 budget is to be available on June 30, 2010. This state budget begins on July 1, 2011 and will be deliberated and ultimately adopted during the First Session of the 125<sup>th</sup> State Legislature. [Actually, the "Valuation" is done annually, but has budgetary implications *only* in the year that the biennial budget is adopted]

According to information provided by Kathy Morin of MainePERS (*see Table on page 27*), the state's UAL payment for state employees was \$75,050,000 for FY 10 and \$78,614,875 for FY 11; for teachers the UAL was \$130,735,107 for FY 10 and \$136,945,025 for FY 11.

Senator Peter Mills says that given current stock market conditions, the UAL for pensions could nearly double for the FY 12 state budget. "This is a huge budget issue on top of everything else," says Senator Mills.

## PAYING OFF THE UAL

Maine is one of the few states that has constitutionally-required amortization of its unfunded pension liability, says Kathy Morin of MainePERS.

The constitutional mandate is found in Article IX – General Provisions, Section 18 (*see sidebar on page 26*). The amendments (A & B) to Section 18 were enacted in the November election of 1995. Over 70% of Maine voters supported the amendments.

It seems probable that the support-

ers of the constitutional changes envisioned a 30-year straight-line amortization of the UAL as it existed on June 30, 1996. In some of the early years of the UAL pay down, the state was contributing extra monies to the effort, reducing the expected timeframe for the amortization. The recession and state budgetary problems that arose in the early 2000s put an end to that practice.

Karl Turner, who was in the state legislature from 2001-2008, says the methodology used in addressing the UAL payments was “very rational” at the beginning. He says that the “extra payments” made by the state created a situation similar to when a homeowner with a 30-year mortgage pays additional toward the principal shortening the life of the loan.

At one point, Turner says, the UAL was down to a 17-year pay off. But, responding to state budget shortfalls, the legislature decided to re-amortize the UAL payments back to the constitutional 31-year plan (ending in 2028).

MainePERS’s Kathy Morin says the state’s UAL payments are stretched as far as they can get. The bad economy has created a serious UAL funding problem, but the state legislature has no choice but to continue making payments.

The only way around the constitutional mandate is to change the constitution and that would require a 2/3 vote of the state legislature followed by an affirmative statewide referendum vote.

## INVESTMENTS AND COST SAVINGS

Another way of reducing the UAL is through more investment income or cost savings on the benefits side, but these alternatives are challenging as well.

The UAL is a fluid number. It is affected by investment return and the changing demographic data on the retiree population.

The annual state government payment to the retirement system is based on the aforementioned Valuation Report. This valuation considers all actuarial information related to the retiree population – an accounting of what those retirees will receive in benefits for the two-year state budget period. On top of this “normal costs” calculation, the actuary adds in the UAL amortization payment and the

“experience losses” that according to the constitution must be retired over a 10-year period. Under the current pension system structure, there appears to be very little wiggle room with the “normal costs” calculation and the UAL amortization.

The asset side of the equation is impacted by the return on investment. The entire retirement system has a current investment portfolio of about \$9.3 billion. When the investment market is hot, the assets increase substantially; when the market is down, those assets decline. The UAL is inversely tied to the investment return (the *greater* the return, the *lower* the UAL, and vice versa).

Return on investment assumptions are built into the Valuation Report and projections of the UAL. The current rate of return assumption for the retirement system investments is 7.75%. The long-term investment return for the retirement system (since January, 1977) has been 9.7% which is almost two percentage points over the “anticipated” return rate.

More recent investment returns are the problem. The one-year investment rate of return, as of June 30, 2009, was -18.5%, as previously noted. According to the MainePERS website, the three-year return rate was -1.0%;

the five year return, 3.9%; and the 10-year rate of return, 3.7%.

The expenditure side of the equation, what retirees receive in benefits, also has some constitutional protections. The state constitution (Article IX, section 18) clearly states that funds put into the retirement system are to be used to pay the benefits of retirees.

While arguable that this does not guarantee a fixed benefit level, it does present a constitutional hurdle, along with the political hurdles that exist, for those who believe that benefit curtailments for current employees must be included in the discussions regarding UAL pay down. Nationally, most governmental pension reform proposals do not target current or retired employees. From an online article of the National Conference of State Legislators, Ron Snell, NCSL’s pensions and retirement expert, says that “it is very difficult or impossible to reduce pension benefit packages because of various constitutional and statutory guarantees and judicial decisions. Once granted, a pension is a contractual obligation of the employer.”

The situation is clearly a quandary for state legislators, who, on one hand, want to honor “benefit promises” made to current retirees and employees, and, on the other hand, must ful-

## Maine State Constitution Article IX. General Provisions.

**Section 18.** Limitation on use of funds of Maine State Retirement System. All of the assets, and proceeds or income therefrom, of the Maine State Retirement System or any successor system and all contributions and payments made to the system to provide for retirement and related benefits shall be held, invested or disbursed as in trust for the exclusive purpose of providing for such benefits and shall not be encumbered for, or diverted to, other purposes. Funds appropriated by the Legislature for the Maine State Retirement System are assets of the system and may not be diverted or deappropriated by any subsequent action.

**Section 18-A.** Funding of retirement benefits under the Maine State Retirement System. Beginning with the fiscal year starting July 1, 1997, the normal cost of all retirement and ancillary benefits provided to participants under the Maine State Retirement System must be funded annually on an actuarially sound basis. Unfunded liabilities may not be created except those resulting from experience losses. Unfunded liability resulting from experience losses must be retired over a period not exceeding 10 years.

**Section 18-B.** Payment of unfunded liabilities of the Maine State Retirement System. Each fiscal year beginning with the fiscal year starting July 1, 1997, the Legislature shall appropriate funds that will retire in 31 years or less the unfunded liabilities of the Maine State Retirement System that are attributable to state employees and teachers. The unfunded liabilities referred to in this section are those determined by the Maine State Retirement System’s actuaries and certified by the Board of Trustees of the Maine State Retirement System as of June 30, 1996.

fill the “constitutional promise” made to the Maine people to pay down the UAL.

During the last session of the Maine Legislature, LD 1431 was enacted and it creates a task force that is looking at retirement benefits for “new” state employees and teachers who join the retirement system after January 1, 2011. That task force has been asked to design a unified health and retirement plan that coordinates with or includes Social Security benefits for *only* state workers and teachers. The task force is supposed to have its report ready by March 1, 2010.

### THE NATIONAL UAL PROBLEM

Retirement benefit programs are of two types: defined benefit plans and defined contribution plans (*see “The Changing Face of Retirement Benefits”, February 2007 issue of Maine Townsman*).

A defined benefit plan is the traditional pension system where the employer agrees to provide a fixed benefit to its retirees for as long as they live. The employee often, but not always, contributes to this plan. The obligation to pay the agreed upon benefit rests with the employer.

The defined contribution is a retirement plan where the employer and the employee jointly contribute to an account for the employee to access when he/she retires. The employer does not have any risk or make any promises regarding the performance of retirement funds after making the employer contribution. The UAL issue only applies to defined benefit plans.

In 2006, almost 80 percent of state and local government workers were covered by a retirement plan, and 80 percent of those employees had a defined benefit plan. The percentage of Maine local government workers covered by a defined benefit plan, according to the February '07 Townsman article, is well below the national average coming in somewhere between 33 and 50 percent.

Nationwide, retirement plan assets for state and local governments were about \$3.2 trillion in 2007. Since October of 2007, state pension funds have fluctuated significantly as investments markets have been very volatile.

Keith Brainhard, research director of the National Association of State Retirement Administrators, said in a

recent online article that state/local retirement systems lost \$800 billion in 2008.

According to the Center for Retirement Research at Boston College, a sampling of state and local retirement plans showed that they were 87 percent funded in 2007. By October 2008, if assets were valued at market, the ratio would have declined to 65 percent.

An online *Washington Post* article dated October 11, 2009, said that state/local retirement systems had lost \$1 trillion on their investments. A Pricewaterhouse Coopers analysis, according to the article, has projected that in 15 years the state/local retirement systems would have less than half the funds needed to pay their pension benefit obligations.

All eyes were on California last year when a “Pension Prop 13” was proposed to amend the state constitution with a major overhaul of the state’s retirement benefit program.

The petitioners did not get enough signatures to get the proposal on the 2008 ballot, but many think with California’s current state budget chaos this issue might resurface in the near future.

The proposal would have amended the state constitution to:

- Preserve the basic structure of a defined pension benefit based upon

the final salary and years of service of public employees.

- Cap benefits below present levels.
- Increase eligibility ages, except for public safety employees, to Social Security levels, and increase the eligibility age as it increases for Social Security.

• Take Social Security benefits into account when calculating state or local pension payments.

- Replace the current base of pension calculation—the last year of employment—for some California public employees—with an average of the last five years.

• Exclude overtime, bonus and severance pay, as well as pay for unused vacation and sick leave, from the base for calculating pensions.

- Provide medical insurance only to people who reach full retirement age.

Advocates of this proposal said it would save California more than \$500 billion over 30 years.

### RETIREE HEALTH INSURANCE

On top of the pension fund liabilities, the State of Maine also has unfunded liabilities for health insurance benefits. For state employees and retirees, the health insurance benefit paid by the state is 100% for the individual. For teachers, the benefit the state pays is 45% of individual

### State Pension Costs for State Employee and Teacher Retirement Programs

Type of Cost	Employee	FY 2010	FY 2011
Normal Costs	State Employees	n/a	n/a
UAL	State Employees	\$75,050,000	\$78,614,875
Normal Costs	Teachers	\$57,072,592	\$59,783,540
UAL	Teachers	\$130,735,107	\$136,945,025
Normal Costs	Teachers (grants)	\$2,978,543	\$3,120,024
UAL	Teacher (grants)	\$6,822,893	\$7,146,980
Total (Normal Costs)	State/Teachers	\$60,051,135	\$62,903,564
Total (UAL)	State/Teachers	\$212,608,000	\$222,706,880

*\*Normal costs for state employees are included in each state dept’s personal services budget and not shown in this table because the breakdown was not available. MainePERS collects Normal Costs and UAL for grant-funded teachers. The state’s “required” UAL payment for FY 10 are \$212,606,259 and \$222,705,056 for FY 11, which are slightly different that the totals shown above because of personnel budget modifications.*

coverage.

The cost to the state for retiree health insurance alarms some state leaders more than the UAL for the state pension system.

"It's a 'pay-as-you-go' system, says Karl Turner. He realizes that many long-service state and local government employees won't be eligible for Medicare and many of the current retirees are not Medicare eligible.

But, "it's an ugly mess", says Turner. He criticizes the legislature for letting people retire early with full health insurance benefits.

Changes to retiree health insurance benefits are not constrained by the state constitution, as with the pension benefits. Health benefit changes for retirees are affected by state employee labor contract negotiations. In fact, the state labor contracts do not distinguish between active and retired employees when it comes to health insurance benefits. What this means is that the state retiree gets the same health insurance benefit as the active state employee.

The UAL for the Health Plan differs from the pension system's UAL. Because it is a "pay-as-you-go system", there are no assets to compare with the liabilities. And, there is no mandated (statutory or constitutional) liability for the state.

The Governmental Accounting Standards Board (GASB) which provides financial reporting directives to state and local governments says there is a "unfunded liability" for state and local governments that provide health benefits to retirees. GASB 45 advises state and local governments to include actuarial post-employment benefits, specifically health insurance benefits, in their financial statements.

While not legally mandated, GASB pronouncements are used extensively by government auditors and financial bond rating agencies and are widely accepted as "best practices" in governmental accounting and financial reporting.

## CONCLUSION

Although the UAL problems with the state retirement and health plan for state employees and teachers does not have a direct effect on municipalities, they are a 'clear and present' danger to the state budget. Unfortunately for municipalities, state budget

problems have a way of turning into municipal budget problems.

Another former state legislator, Richard Woodbury, an economist by profession, says the "political system is very good at deferring obligations."

Unfortunately for the politicians who run the system they seem to be out of sync with the electorate who voted overwhelmingly in 1995 for a constitutional amendment that forces the state to pay down its promised pension benefits. And, the highly-regarded Governmental Accounting Standards Board is telling state and local governments that they have to show their post-employment (retiree) benefit obligations in their financial reports.

Geoff Herman, director of State & Federal Relations at MMA, says, "An effort seems to have begun at the legislative level to orchestrate a shift in obligation from state government to local government to pay-off at least some of the enormous unfunded liabilities that have accrued at the state level. The local governments and the property taxpayers who support them should not be asked to pay-off outstanding liabilities associated with pension benefits local government did not design, promise, implement or have responsibility for financing. The accrued liabilities in the state retirement system is a Titanic we are not comfortable attaching our dinghy to." 



Helping your employees  
save for their futures  
is one of the best moves  
you can make!

Simple ✓  
Convenient ✓  
High Quality ✓  
Low-Cost ✓

**MAINE  
START**

MaineSTART is the Defined  
Contribution program from Maine  
Public Employees Retirement  
System (MainePERS).

Contact: Stephanie Fecteau [www.mainestart.org](http://www.mainestart.org)  
tel: 207-512-3305 e-mail: [Stephanie.Fecteau@mainepers.org](mailto:Stephanie.Fecteau@mainepers.org)

## MMA Personnel Services and On-site Consulting Services

MMA Personnel Services offers a wide range of specialized on-site consulting services for our members. Personnel management and labor relations expertise is available for direct assistance or general inquiries through a toll-free telephone line. Direct on-site assistance is available in the following areas:

**Labor Relations** — Representation of the municipality in labor negotiations, mediation, arbitration and grievance processes.

**Executive Search** — Assistance with the recruitment of a new city or town manager or department head.

**Training** — On-site training in a variety of topics.

**Testing** — Entry level police and fire testing.

For more information on all Personnel Services programs, or general personnel management information, contact David Barrett, Director of Personnel Services and Labor Relations at 1-800-452-8786.

# People

Bangor City Manager **Edward Barrett** was unanimously selected in early December by the Lewiston City Council to become the new city administrator. Barrett, 62, has managed Bangor for 22 years and plans to assume his new duties in Maine's second-largest city in January. The Lewiston City Council quickly recruited Barrett late in the hiring process after learning that the Bangor City Council was not planning to renew Barrett's employment contract when it expired next spring. Meanwhile, the Bangor City Council is seeking proposals from 40 private firms to find a new manager and say the process will take several months.

Rumford selectmen have named a town park after former Selectman **J. Eugene Boivin** for his many years of civic and community service. Boivin, who has been ill, was lauded for his selfless dedication to the mill town and the countless events and efforts he has spearheaded over a long career.

The Biddeford City Council extended the employment contract of City Manager **John Bubier** for another three years in November. Bubier will not receive a pay raise for the current year and the council has directed all other municipal employees to forego a raise this year.

Brewer Fire Chief **Richard Bronson Jr.** will retire next March, ending a 35-year career with the department, including the last 11 as chief. Bronson was elected city councilor in nearby Bangor in November and said he looked forward to doing "other things" once retired.

Bowdoinham has lost the service of both a selectman and its part-time economic and community development director. Selectman **Stephen Ciembroniewicz** resigned effective November 17 after being hired as principal of a local elementary school. Also in November, **Tony Cox** gave notice that he was resigning from his part-time development director post. Cox was credited with putting Bowdoinham "on the map," while Ciembroniewicz said he intends to remain active in the community.

The late **Robert Dodge**, former economic and community development

director for the City of Biddeford, who died in February at the age of 63, will be honored by having a city business park renamed for him. Dodge worked for the city for more than 30 years and helped develop and fill the city's four industrial and business parks.

Strong Fire Chief **Scott Dyar** has accepted a papermaking job in Longview, Texas, leaving his volunteer top job open for the first time in five years. In all, Dyar worked for the town's fire department for 17 years. A new fire chief will be elected by voters at next spring's annual town meeting.

**Joseph Loughlin**, longtime Portland assistant police chief, will retire December 30 after almost 30 years with the department. Assistant chief since 2006, Loughlin said he wants to write and teach after leaving public office. The city has opened a national search for his replacement and will take applications until mid-January.

Hallowell councilors named **Todd Shea** as full-time city manager in early December after Shea served as interim manager since November 2008, when then-manager **David Giroux** suffered a stroke. The vote was unanimous. Shea will continue his work as code enforcement officer, a job he has held since 2007, in addition to the manager's duties, until a replacement is hired.

Presque Isle City Manager **Thomas Stevens** has been named an area director for the USDA Rural Development program, effective January 11. Stevens' area of work will include Aroostook and Washington counties, as well as parts of Penobscot County.

Enfield Town Manager **Theresa Thurlow** has announced she will retire next July 1, although she intends to continue her work as the town's code enforcement officer after that time. Meanwhile, Tax Collector and Deputy Town Clerk **Dawn Chubbuck** also will retire, effective next July, after working for the town in a number of different capacities over 28 years.

A fundraising dance and supper was held in mid-December to help Wilton volunteer firefighter **Michael Warren**, who has been diagnosed with colon cancer. Warren, 36, works for Northeast Emergency Apparatus in Auburn and

is expected to be out of work until next spring. He has been a volunteer firefighter for 21 years.

*More November 3 election results (not covered in last month's issue):*

Incumbent Houlton Town Councilor or **Nancy Ketch** collected the most votes in a three-way race for two council seats with 1,596 votes. Newcomer **Frederick Grant** placed second with 1,482 votes, while former Councilor **Phil Bernaiche** garnered 716 votes.

**Sharri MacDonald** and **Shawn O'Neill** defeated challenger William Danton to retain their town council seats in Old Orchard Beach. MacDonald received 2,755 votes and O'Neill won 2,642 votes, while Danton received 1,285 votes.

Sanford voters returned **Anne-Marie Mastraccio** to office with 3,116 votes in a five-way race for three town council seats. However, incumbent **Maura Herlihy** was defeated with just 2,736 votes, compared to **Alan Walsh** and **Richard Wilkins** who won the two other open seats with vote tallies of 2,985 and 2,828.

Saco City Councilors **Roland Michaud** and **Ronald Morton** faced off for the mayor's job, with Michaud winning by a vote of 4,887 to 1,501.

Scarborough voters returned Town Councilor **Carol Rancourt** to office with 4,627 votes, while **Jessica Holbrook** defeated incumbent **Richard Sullivan Jr.** and Michael Hogland by winning 3,770 votes. Sullivan garnered 3,354 votes, while Hogland collected 2,433 votes.

**Donald Russell** defeated James Morris by a vote of 2,096-1,899 for a term on the Topsham Board of Selectmen.

**Wilma Stanchfield** defeated two challengers to win a two-year term on the Milo Board of Selectmen. Stanchfield received 365 votes, compared to 246 and 181 for the other two candidates.

South Berwick voters elected **David Webster** over three other candidates for a two-year term on town council. Webster received 1,106 votes to easily defeat his challengers.

Oakland Town Councilor **Dana Wrigley** collected 1,151 votes to win reelection in a seven-person race for two open seats. **Donald Borman** received 1,011 votes to finish second. **[M]**

*Alfred:* The York County town of about 2,800 residents has the best tasting public water in Maine in the chlorinated category, while the even smaller Somerset County town of Solon took first place for non-disinfected water in the yearly competition sponsored by the Maine Rural Water Association. The winners advance to the national contest, which is scheduled for next April in Washington, D.C. In all, more than 20 public water systems competed in the Maine competition.

*Auburn:* The city is being sued by a Lewiston resident who was struck in the face by a hockey puck in 2008 while attending a game at a city arena. The woman's son was a player in the game. The lawsuit claims the woman, age 39, sustained serious permanent injuries, lost wages because of her injuries and suffered emotional and mental pain. The woman already has settled out of court with the Auburn School Department for medical expenses. According to the *Sun Journal*, the woman settled a lawsuit out of court five years ago with a Rockland recreation center after slipping in a hockey arena and injuring her back when she fell on the concrete floor.

*Bangor:* Maine's third-largest city is one of several municipalities already discussing ways to limit the number of medical marijuana dispensaries allowed under a new state law enacted by Maine voters on November 3, 2009. State officials noted in early December that towns and cities will need to be careful in developing zoning restrictions for the clinics, but are allowed to set limits under the new state law. Bangor already is home to several methadone clinics that have caused some concerns from residents over the years.

*Brunswick:* The town council in December wrote to Gov. John Baldacci asking that Town Manager Gary Brown be re-appointed to the Midcoast Regional Redevelopment Authority. Councilors said the redevelopment of the former Brunswick Naval Air Station is crucial to the future of the city and therefore councilors want a direct link to the authority and its decisions.

*Cumberland:* The town is studying whether a number of private wells in a

small area of town have been contaminated by municipal salt. The problem is being investigated after an independent water quality test last fall showed elevated salt levels in one private well that could have been caused by winter road salting, town officials said. The town has hired an engineering firm to study the problem and recommend a solution.

*Falmouth:* The town has added a six-part section on its municipal website to help recruit new businesses and potential economic developers. The site now provides detailed information on such matters as site location and financing, including a database of available commercial properties. The work has been spearheaded by Theo Holtwijk, director of long-range planning for the town, but also involved input from numerous other people, including town councilors, the manager and assistant manager, the economic development director and the Falmouth-Cumberland Chamber of Commerce.

*Mount Desert Island:* One of Maine's wealthiest areas has seen a steep increase in requests for federal food stamps in the past two years, illustrating the depth and seriousness of the present economic downturn. Food stamp use in the town of Mount Desert, which has the highest property value in Hancock County, increased 37 percent. Overall, food stamp use in Hancock County jumped about 40 percent from 2007 to 2009.

*Pittston:* Property tax bills are being mailed to homeowners late this year because of a dearth of help at the town office. Over the past several months, the town has lost its tax collector/treasurer and assessor, forcing selectmen to change the tax due date from December 11, 2009, to January 25, 2010, to give the town's new tax collector time to get the work done. Also, the town recently hired a private assessing firm to help get caught up. Without changing the tax due date, residents would have been assessed interest on tax bills they had not received. Exacerbating the problem was the selectmen's inability to secure a tax anticipation loan last summer because the town did not have a tax collector. The town recently was approved for a \$500,000 TAN, much of which was

handed over to the regional school district for money owed by the town.

*Portland:* City officials have applied for \$23 million in federal stimulus funding to build a berth for cruise ships, assist pier owners to improve the waterfront and to upgrade the international marine terminal – projects that would create about 2,600 permanent jobs, according to officials. Municipal and state leaders fear Portland's chances are slim because there are so many projects across the nation competing for the economic development money. Eastport and Searsport also are included in the total \$32 million stimulus request submitted by the state for its "three port" strategy.

*Rockport:* Employees of the public works department took the first step toward joining the Teamsters Local Union 340 when they filed a petition seeking to unionize with other town employees in November. The town's police department already is part of the union. The Rockport PWD employs five drivers and one administrative assistant.

*Rumford:* Selectmen are considering shutting down fire call boxes when they break in order to save money in the next budget. However, the fire department would need to replace the boxes with newer technology if the board ultimately decides to move forward with the idea. The board decided to get more information before making a decision.

*Vienna:* The town may abandon paved roads because the road maintenance account is broke, officials said in early December. The road commissioner told selectmen the account contains \$60 and raised the specter of curtailing repairs – other than potholes – because of rising costs, lack of money and increasingly bad road conditions. Earlier this year, selectmen asked for estimates to repave all 14 miles of town roads, but rejected the price of \$1.5 million because the loan would last longer than the road work.

*Woodstock:* The town has sold its 1974 Ford pumper truck to the Sweden Fire Department for \$1. Woodstock firefighters sought out a town that needed a pumper but was ill-prepared to buy one. Sweden officials picked up the donation immediately – and gratefully. [m](#)

# Municipal Bulletin Board

## REQUIRED POSTERS

Employers in Maine are required by law to post certain posters in the workplace where workers can see them.

You can get the required State and Federal posters on the Maine Department of Labor website, [www.maine.gov/labor/posters/](http://www.maine.gov/labor/posters/). Most of the required posters are available as PDF files which can be printed from the site at no cost.

## UPDATED PACKETS

Two of the MMA Legal Information Packets have been updated and are available online at the MMA website, [www.memun.org](http://www.memun.org)

Updated information has been added to the "Moratorium Ordinances" and "Road Weight Limits" legal packets.

These information packets are in the "member" section area of the MMA website.

## ROADS MANUAL

A new version of MMA's Municipal Roads Manual is now available. The new edition replaces the one published in 1999, including the three supplements added since that time.

To purchase a printed copy of the manual, call MMA Publications at 1-800-452-8786. To view or download an online copy of the manual, go to the MMA website at [www.memun.org](http://www.memun.org)

All MMA manuals are in the "member" section area of the website.

## SPENT STIMULUS

States and localities spent a quarter of the money they are set to receive from the federal stimulus package – an amount that tops \$69.1 billion – by late November, according to a report released by federal auditors on December 10, 2009.

Of that sum, 85 percent was spent on health care, education and training, the Government Accountability Office (GAO) concluded.

Because of the recession, states are grappling with higher enrollment in Medicaid, the state-federal health in-

surance program for poor Americans. Most of the new enrollees are children, the agency noted.

In discussions with state officials, the federal auditors confirmed that most are worried about what happens when higher Medicaid reimbursement rates included in the stimulus package expire in December 2010.

But some of the strings attached to that money are also causing headaches for state officials. The law, for example, specifies that certain Medicaid providers must be paid promptly, which officials in a sample of 16 states said was the most difficult requirement under the law. Four of the states said, for at least one day, they missed deadlines for on-time payments to providers.

The speed with which states are spending new money for highways and other transportation projects varies greatly, the GAO said. Illinois and Iowa are among the most speedy states, but that's because both Midwestern states dedicated much of their money to repaving and reconstructing existing roads. Florida and California have been much slower. Florida is using its money to build new highways, while California is funneling most of its money through local governments, which adds more time to the process. (from "Weekly Wrap", by Stephen C. Fehr, *Stateline.org*, December 11, 2009)

## STATE TAX HIKES

Twenty-nine states raised taxes or fees this year, bringing in an estimated \$23.9 billion — the highest increase since at least 1979, according to data released this week. The reliance on so much new revenue is sudden, to say the least. In the previous year, tax and fee hikes totaled \$1.5 billion.

That's the word from the National Governors Association and the National Association of State Budget Officers, which together issued a state-by-state tally of actions taken to close ever-expanding budget gaps and balance state spending plans. The report is an update of preliminary numbers released last month.

Eleven states upped their personal

income taxes, accounting for \$10.7 billion in new revenue. But a closer look reveals that most of that comes from just two states: California and New York, which raised payroll taxes for a combined \$8.4 billion. California also accounted for \$4.4 billion of the \$6.1 billion in new sales taxes nationally.

Meanwhile, 22 states and Puerto Rico used layoffs to trim state expenses, and 23 states applied across-the-board cuts, according to the study.

The final report paints an even grimmer picture of state finances for the current fiscal year (FY 2010) than last year, which was plenty painful. Last year's general fund spending by states shrank by 4.8 percent and marked the first time on record that state year-to-year spending dropped two years in a row. There will likely be a third year: The report estimated that state spending this year will drop even more, by an "unprecedented" 5.4 percent. (from "Weekly Wrap", by Daniel C. Vock, *Stateline.org*, December 4, 2009)

## ENERGY EFFICIENCY PROJECTS

Communities that submitted applications for funding under the Energy Efficiency and Conservation Block Grants (EECBG) may want to contact Northeast Energy Efficiency Partnerships (NEEP) for assistance with their energy efficiency projects for public buildings.

NEEP provides guidance through best practices, case studies and resources to help local officials ensure good planning, coordination, design and operation of buildings that are well-built, healthy and energy efficient.

NEEP works with policymakers, energy efficiency program administrators and other stakeholders to advance the efficient use of energy in homes, buildings and communities. NEEP specializes in the area of high performance buildings and is coordinator of the Northeast Collaborative for High Performance Schools.

To find more information on NEEP and the assistance it offers, go to the NEEP website at [www.neep.org](http://www.neep.org) 

# Legal

## ANNUAL MEETINGS & THE 90-DAY RULE

**Question:** We've heard about a "90-day rule" in reference to our annual town meeting. What's this about?

**Answer:** There are a number of actions affecting the choice of officials and other aspects of municipal government that must, if desired, be voted at a town meeting held at least 90 days before the annual meeting at which they are to take effect. (The annual meeting is the meeting at which elected officials are chosen, see 30-A M.R.S.A. § 2525.) Here they are:

**Selectmen/Overseers.** To change the number or terms of office of selectmen or overseers of the poor (see 30-A M.R.S.A. § 2526(4)(A)).

**Assessors.** To determine whether a single assessor will be appointed or a board will be elected, to change the number of assessors, or to change the term of office of the assessor or assessors (see 30-A M.R.S.A. § 2526(5)(A)).

**Written ballot.** To designate other officials, besides the moderator, selectmen and school committee, to be elected by written (*i.e.*, blank paper) ballot (see 30-A M.R.S.A. § 2525(2)).

**Board of Assessment Review.** To adopt (establish) a board of assessment review (see 30-A M.R.S.A. § 2526(6)(A)).

**Road Commissioner(s).** To determine whether one or more road commissioners will be chosen and the term of office (see 30-A M.R.S.A. § 2526(7)(A)).

**Alternative nominating process.** To change from an "open" (from the floor) nominating process to one requiring nomination papers or certificates of political caucus (see 30-A M.R.S.A. § 2527).

**Secret ballot elections.** To adopt the secret ballot method for electing the selectmen and school committee, to determine which other officials are to be elected by secret ballot, and to adopt the secret ballot referendum option for deciding questions (see 30-A M.R.S.A. § 2528).

**Town manager plan.** To adopt the statutory town manager plan (see 30-A M.R.S.A. § 2631).

**Reapportionment.** To adopt a reap-

portionment (redistricting) ordinance (see 30-A M.R.S.A. § 2503(2)).

**Campaign reports.** For a town or city with a population of less than 15,000, to choose to be governed by Title 21-A campaign finance reporting requirements for municipal candidates and/or municipal referenda campaigns (see 30-A M.R.S.A. § 2502). (Candidates and referenda campaigns in a town or city with a population of 15,000 or more are automatically governed by Title 21-A campaign finance reporting requirements.)

**Revocation.** To revise or revoke any of the foregoing decisions (see the statutes cited above).

Since none of these actions can take effect other than at an annual meeting, the meeting at which they are voted can be either the annual meeting for the preceding year or a special meeting held at least 90 days before the annual meeting. In either case, the warrant article should clearly identify the annual meeting at which it is to take effect. Once approved, these actions remain in effect indefinitely and do not need to be renewed. (*By R.P.F.*)

## LIABILITY FOR SNOW & ICE

**Question:** Can municipalities be held liable for accidents caused by snow or ice?

**Answer:** As a general rule, no. Maine law recognizes the realities of

life here in winter and, for the most part, shields municipalities from liability for winter-related conditions. Here are some illustrations:

**Snow- or ice-covered roads.** While municipalities have a statutory duty to remove snow so as to make town ways passable (see 23 M.R.S.A. § 3201), they are immune from liability for accidents caused by snow or ice on road surfaces (see 23 M.R.S.A. § 1005-A(1)). Neither is a slippery road surface due to snow or ice a "highway defect" under the "Pothole Law" (see *Wells v. City of Augusta*, 135 Me. 314 (1938)). Nor does the failure to remove snow or ice constitute negligent "street cleaning or repair" under the Maine Tort Claims Act (MTCA) (see *Goodine v. State*, 468 A.2d 1002 (Me 1983)).

**Snow-or ice-covered sidewalks.** Municipalities are specifically immune from liability for snow or ice or slippery conditions on any sidewalk (see 23 M.R.S.A. § 3658).

**Mailboxes.** Municipalities are not liable for damage done to mailboxes (for example, by the wing of a snow-plow) within the legal right of way. Some municipalities, however, have a policy of repairing or replacing damaged mailboxes in order to maintain community relations. For more on this, and for guidelines on how and where mailboxes should be installed to avoid wintertime damage, see "Mailbox Guidelines," *Maine Townsman*,

# Municipal Calendar

**JANUARY 1** — New Year's Day — A legal holiday. (4 M.R.S.A. §1051)

**ON OR BEFORE JANUARY 15** — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, 11 State House Station, Augusta, ME 04333-0011 [22 MRSA §4311].

**JANUARY 18** — Martin Luther King, Jr. Day - a legal holiday (4 MRSA §1051).

**BY JANUARY 20** — Treasurer of State to send notice to chief municipal officer

of maximum interest rate which can be charged on delinquent taxes (36 M.R.S.A. §505).

**JANUARY 31** — Deadline to submit quarterly withholding taxes to State Tax Assessor (36 MRSA § 5253).

**DURING JANUARY** — In towns with a March annual meeting, selectmen should begin preparing the town meeting warrant and town report. Obtain reports from all departments: schools, roads, etc. Arrange to have annual audit made before town meeting.

"Legal Notes," April 2003.

**Snowmobile- and ATV-access routes.** If the municipal officers designate a local road as a snowmobile- or ATV-access route and a mishap occurs, neither they nor the municipality can be held liable for their decision. This is a discretionary function for which there is no liability under the MTCA (see 14 M.R.S.A. §§ 8104-B(3), 8111(1)(C)). For more on this, see "Designating Public Ways as ATV-access Routes," *Maine Townsman*, "Legal Notes," May 2005.

**Public outdoor recreation facilities.** Under the MTCA municipalities are immune from liability for public outdoor recreation facilities such as ski or snowmobile trails, skating rinks, etc. (see 14 M.R.S.A. § 8104-A(2)(A)(3)) unless they insure them, in which case they can be held liable to the limits of the policy (see 14 M.R.S.A. § 8116). Snowmobile clubs and others who construct or maintain trails for public recreational use are also immune from liability (see "Snowmobile Club Liability Limited for Public Trails," *Maine Townsman*, "Legal Notes," February 2004).

But there are exceptions to the rule:

**Negligent snowplow operation.** Whether the operator is an employee or an independent contractor, a municipality can be held liable under the MTCA for negligent ownership, maintenance or use of motor vehicles and equipment such as snowplows, etc. (see 14 M.R.S.A. § 8104-A(1)). So if a snowplow negligently damages another vehicle or injures a pedestrian, for example, the municipality may be liable. (Contractors therefore should be required to carry liability insurance for at least \$400,000 – the liability limit under the MTCA.)

**Negligent building maintenance.** A municipality can be held liable under the MTCA for negligent maintenance of public buildings and appurtenances (see 14 M.R.S.A. § 8104-A(2)). This includes steps, stairs, landings and walkways, inside and out. These areas should be kept reasonably clear of ice and snow, and dry wherever possible, not only after a storm but during the storm as well, especially if a significant number of people can be expected to enter or leave the premises while the storm is in progress (see "Tort Claims Liability During Winter Storms," *Maine Townsman*, "Legal Notes," Mar. 2001).

**Private well contamination.** A municipality can be held liable for contaminating private water supplies as a result of road construction or maintenance, including salting and sanding

(see 23 M.R.S.A. § 3659). There is a specific procedure for such claims, and there are also certain defenses: (1) the well is located within the legal right of way; (2) it does not provide for adequate surface drainage; or (3) it was already contaminated by another source. But there is no liability for other kinds of property damage due to salt contamination, such as dead trees or grass, unless the pollution is so bad that it effectively rendered the property worthless, resulting in a "taking" without just compensation (see *Foss v. Maine Turnpike Authority*, 309 A.2d 339 (Me. 1973)).

For a more detailed discussion of many of these issues, see MMA's *Municipal Roads Manual*, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.) 

## Dirigo News Service

*Promoting the work and achievements  
of local government in Maine*

Writing, editing, proofreading,  
PR workshops, issue papers, reports,  
program reviews, research and more

Contact Liz Chapman Mockler at:  
207-621-9882  
email: [lizmockler@hotmail.com](mailto:lizmockler@hotmail.com)

## Professional Directory

### THE GENERAL CODE ADVANTAGE

- Codification and supplementation of your ordinances
- Electronic access to Codes and records
- Document Management Products and Services from Laserfiche®
- Building, Planning and Zoning Software

Contact Herb Myers, Regional Rep at (800) 836-8834.

[www.generalcode.com](http://www.generalcode.com)



GENERAL  
CODE



A. E. HODSDON  
ENGINEERS  
10 Common Street  
Waterville, ME 04901

[aeheng@prexar.com](mailto:aeheng@prexar.com)  
207-873-5164



26 Pinewood Lane  
Harrison, ME 04040  
(207) 583-4571

[www.hturner.com](http://www.hturner.com)

### ARCHITECTS

•  
**ENGINEERS**

•  
**BUILDING  
SCIENTISTS**

•  
**CONSTRUCTION  
MANAGERS**

# Index for 2009

## ASSESSING

Ups & Downs of Assessing February  
Creative Revaluation Aug/Sept

## FINANCE

Infrastructure Spending January  
Grant Funding January  
Municipal Borrowing January  
Federal Stimulus Money Starts to Flow March  
More Funding for Water & Sewer Projects April  
Stimulus Funding Update July  
Deciding Whether to Accept Credit Cards October  
Q&A on New Credit Card Law October

## GENERAL GOVERNMENT

Towns Looking for Affordable GIS February  
Boards & Committees March  
Managing Meetings in Challenging Times March  
March Town Meeting Roundup April  
Managing A Small Community April  
Barrett Bullish on Bangor May  
'Hardy' Help at Town Office July  
Innovative Approaches to 'Building Community' October  
Still a 'Fighter' After All These Years October  
Plenty of Local Referenda in November November  
Why We Recycle January

## LAND USE

Large-Scale Water Extraction July  
Shoreland Zoning Update July  
Why Municipalities Should Support Local Farms October  
Wind Power & Municipalities October

## LEGAL

'Going Out of Business' Sales Require License January  
Installment Contracts For Sale of Real Estate January  
Maximum Interest Rate for '09 Delinquent Taxes January  
New 'Red Flags Rules' January  
Pawnbroker Licenses January  
Cancelling Town Meeting Due to Weather February  
Landowner Liability Law February  
LD 1 Property Tax Limits February  
Town Meeting Checklist February  
Tax-Acquired Property: Eviction Not Necessary March  
Potholes, Frost Heaves and Road Postings March  
Waiver of Lien Foreclosure March  
Who May Be A Registrar? March  
Community Gardens April  
Tax-Acquired Property: No Warranties Required April  
Why A Municipal Charter? April  
Winter Road Closures April  
Disposition of Records May  
Local Preference in Competitive Bidding May  
Regulating Watercraft May  
Tax-Acquired Property: Abandoned Personalty May  
Court Orders Selectmen to Sign School Warrants June  
No Health Officer? June  
Partisan Advocacy – What Officials Can & Cannot Do June  
'Red Flags' Deadline Delayed June  
Board Meeting Minutes July  
'Draft' Records Are Public July  
Only 'Aggrieved Part' Has Standing to Appeal July  
Voter Registrar Update July  
New Law for Weekly Aug/Sept

Board Meeting Agendas Aug/Sept  
Private Road Repair at Public Expense Aug/Sept  
Sex Offender Residency Ordinances Limited Aug/Sept  
Subdivisions & Farmland Aug/Sept  
Comprehensive Plan Not "Regulatory" Document October  
New Disability Variance October  
Offensive Place Names October  
Rental Housing & Heating Emergencies October  
Road Budget Overdrafts for Maintenance October  
Bank Foreclosures & Municipal Tax Liens November  
Holiday Displays on Municipal Property November  
Red Flags Deadline Delayed Until 6/1/10 November  
Annual Meetings & The 90-Day Rule December  
Liability for Snow & Ice December

## LEGISLATIVE

School Reorganization Update February  
Session Overview June  
New Laws June  
Studies, Commissions, Task Forces, etc. June  
Carry Over Bills June  
November 3, 2009 Election June  
Campaign '09: Excise Tax & Tabor II Aug/Sept  
Unfair, Unnecessary & Unwise Aug/Sept  
Municipal Views on Excise Tax Initiative Aug/Sept  
Building A Unified Corrections System Aug/Sept  
MMA Takes Position on Ballot Questions October  
Money, Money, Money... December  
Carryover Bills: A Status Report December  
Municipal Impact Bills December  
Highway Simplification Study Underway December  
November '09 Election Results December  
Unfunded Liability December

## MAINE MUNICIPAL ASSOCIATION

MMA Priorities for 2009 January  
2009 MMA & Affiliates Training Calendar February  
2009 MMA Convention July  
MMA Convention: Session & Events Aug/Sept

## MUNICIPAL RISK MANAGER

Exits and Building Egress January  
Do You Understand Your Property Insurance January  
Snowblower Safety January  
Emergency Equipment and Building Systems April  
Important Medicare Reporting Requirements April  
Maintaining Exits for Means of Egress April  
RMS Partners to Promote Safety July  
Independent Contractors in Maine July  
Giving Back: Dividends October  
Preventing Roof Collapse October  
Road Salt Contamination Coverage October

## PERSONNEL

Difficult Decisions May  
Contracts and Contracting Out May  
Local Government Is Major Employer November  
Weak Economy Puts Strain on ACOs November  
Harbormaster: 'Ancient and Honorable' November

## PUBLIC WORKS

Cemetery Maintenance April  
Saving America's Infrastructure April



# Trackless Vehicles, LTD

**Trackless Vehicles offers the New and Improved MT6 Sidewalk Tractor! Municipalities across the country use this versatile Sidewalk Machine year around to perform multiple tasks from mowing parks and ball fields to sweeping intersections to large scale snow clearing operations**



- **Efficient**
- **Versatile**
- **Purpose Built**
- **Cost Effective**

**HPF North**  
9 Green Street  
Skowhegan, ME 04976  
800-356-2813



*www.hpfairfield.com*  
*sales@hpfairfield.com*

**HP FAIRFIELD LLC**

---

**MUNICIPAL SPECIALISTS**

**HPF South**  
65 Pleasant Hill Rd  
Scarborough, ME  
207-885-4895

# TD Bank Government Banking

Our Maine Government Banking Team is here to help you help your community.



**Theodore N. Scontras**  
*Executive Vice President*  
1-207-761-8544  
Ted.Scontras@TDBanknorth.com



**Connie L. Brennan**  
*Senior Vice President*  
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



**Christina Townsend**  
*Government Banking Specialist*  
1-207-761-8579  
Christina.Townsend@tdbanknorth.com

- Deposits
- Leasing
- Lending
- CDs and Savings
- Cash Management
- Financial Advice

**CALL YOUR LOCAL GOVERNMENT BANKER TODAY.**



America's Most Convenient Bank®

1-800-532-6654 | [www.tdbank.com](http://www.tdbank.com)