



Maine Municipal Association

2015 Federal Issues Paper



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Introduction

This edition of the Federal Issues Paper presents information to Maine’s Congressional Delegation in a different format than has been used in the past.

Typically, staff members from various departments within the Maine Municipal Association identify topic areas to be covered in the paper, conduct some research and interviews with municipal and state agency officials who have knowledge and experience with the governmental programs under review, and write a short chapter on that subject for inclusion in the annual publication.

We hope that our previous editions of the Federal Issues Paper have been informative, but it’s possible they have been a tad dry.

This year, we wanted to spice things up a little bit by getting some of the local passion for good government and fair play into the document. The articles in this edition of MMA’s Federal Issues Paper come directly from municipal officials themselves. We only provided the paper and ink.

The assignment was for municipal officials to tell a story about the work they do for local government that is impacted – positively or negatively – by decisions made (or maybe not made) at the federal level. The object was to tell the story that makes the point.

We got what we asked for, in spades. From ice storm events to school lunches tossed in the trash bin, from immigrants in our General Assistance offices to predicting flood events in historic downtowns, a variety of stories from many aspects of municipal life are told in the pages that follow.

To the extent these stories truly succeed in making the point, we offer them up freely for the re-telling. Our request is that you pass them along in Washington, to the federal agency officials who can make a difference and to your colleagues under the Capitol dome.

With our thanks.

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2013 Ice Storm Recollection: Thoughts and Perspective From a Small Town

By Mark Robinson
Manager, Town of Fayette

Note: In this piece, Mr. Robinson describes how he and his community dealt with issues following an ice storm and its aftermath, dating to Dec. 21, 2013. For a significant portion of this time period, the Town of Fayette was without electricity.

As I have been trained to follow channels first, I diligently prepared my Form 7 for disaster assessment as it was urgently requested by the Kennebec County Emergency Management Agency (EMA) Director. I did have more pressing things to do at the time but it was a foregone conclusion for me that what we were experiencing would qualify for relief, given we had not seen anything like this since the Ice Storm of 1998.

By day two of the storm, we had one plow truck off the road, disabled, flipped on its side. As a result, the deployment of tire chains for all plow vehicles was ordered. Tire chains have not been used on plow vehicles in Fayette since 1998. A neighboring town had two trucks in a similar state and closed roads from maintenance by executive order altogether until they could catch up with their other routes. I am sure there are many other stories like that but I was too preoccupied with our own issues in the Town of Fayette to care, given the costs we incurred and impact to our public works budget. Our annual public works budget was \$444,000 and we had expended over \$40,000, just for this storm and its aftermath, to keep 39 miles of public roads safe and passable during the period of Dec. 21, 2013 to Jan. 6, 2014.

Aside from road maintenance, on day two of the storm I distinctly recall how fortunate we were to have installed a 56KW Generac generator, funded in part by a FEMA Homeland Security grant, at our elementary school earlier that summer. Remarkably, the 20-year-old school never had a generator that could adequately address its needs. Clearly, the extended outage during the storm and extreme low temperatures would have been a recipe for disaster had the install never occurred.

In addition to my duties as the town manager, I am the unofficial steward/operator of our newly installed wood pellet boiler at the Fayette Central School, funded in part by an ARRA grant via the US Forest Service as administered by the Maine Forest Service.

The generator, boiler and a two-story addition to our school were all part of a significant capital improvement project that I administered during fiscal year 2012-13 with 2013-14 serving as the first full year of operation. The construction phase of the project was fraught with issues: delays, equipment malfunctions, politicizing debates over wood energy vs. oil, the overall cost vs. return on the investment. These issues and others led me to experience the most difficult and trying year of my tenure.

One of the most gratifying moments for me occurred during the storm period. It was near midnight when I visited the school while the temperature was a balmy -5° F. As I arrived, I could hear the comforting hum of the generator and could see the billowing steam cloud from the boiler stack. All was functioning well and successfully and most importantly heating the school. "Thank God for both," I thought to myself. This is supposed to be our warming station, when necessary.

Of course, at the time no one else in town was really thinking about such things: Everyone was focused on their homes, keeping them heated and re-planning how they were going to spend the holidays because after all, it was Christmas!

The days following the event turned into weeks, and in the absence of any word or report regarding our request for relief, I was compelled to contact the Maine Emergency Management Agency (MEMA) which resulted in my issuance of an e-mail to my fellow municipal managers:

"Greetings All: Whereas I did not see any chatter about this on the list serve I have to share and ask for your feedback. It is highly likely Maine will not be receiving any relief from the holiday ice storm. I just received a call from a representative at MEMA; FEMA has changed its policy to no longer recognize Sand/Salt/OT staff time and Operating Equipment COSTS (Plow Trucks/Loaders/Graders etc.) as eligible expenditures in determining a winter time disaster declaration. Anyone have a problem with that? I do. We all know this has been and continues to be a tough winter. The ice storms-hit us hard. How about you? I welcome your feedback."

So it began, a plethora of responses ranging from, "It's Maine, it's winter, suck it up and deal with it" or "We can't expect to go to the Feds for everything" to the majority of those responses that concurred with my assessment that this was a significant event that severely taxed our local resources to keep public ways safe and passable. I was greatly perplexed: Why the difference in response? I am not a wimp, whining with my hand outstretched for big brother to make it better. Why the disparity?

What I learned is that this storm was similar in nature to a microburst that hits one community and not another in that there were many towns nailed with burdensome ice buildup and many that were not. The differing levels of impact made for varying responses and that made it difficult for some towns to understand the significance of the impact on others. So if you didn't feel it, live through it and it did not devastate your budget the "What are you whining about?" attitude made sense. It was all about whose oxen was being gored as the saying goes.

A bigger question presented itself: FEMA, what compelled you to change your policy to no longer recognize sand/salt/OT staff time and operating equipment as eligible expenditures in determining a winter time disaster declaration?

Seemingly, no one in the State of Maine, at a local, county or state level, understood the ramifications of a 2009 (FEMA) winter storm policy change until right now. This led to many responses from Kennebec County EMA staff like this:

"Attached is the latest version of the PDA (Preliminary Damage Assessment) figures we got back from FEMA. You will see the drastic reductions, which primarily consist of sand and salt applied to roads, and the associated equipment and labor costs. Maine DOT had most of its costs cut from the PDA, which made up the bulk of damages in many counties. FEMA is applying a very strict interpretation of the 'snow policy' which only allows sand and salt when the disaster request is for record or near-record snow events. As we all know, that's not what Maine experienced in December."

Ask any plow guy: What is easier to deal with, two feet of snow from a good ol' traditional Nor'easter or a protracted freezing rain and ice build-up event? Ten out of 10 will tell you and relish a traditional winter storm which meant one to two feet of snow dropping on the state. As burdensome as two feet of snow can be, we are prepared for it. We are budgeted for it. We know what we need to do to keep our roads safe and passable during a snow event and no matter how frequent an event, snow is never as taxing as ice. Consider the present 2015 winter season and although the continual snow is a burden it is nothing compared to the impact of an ice storm.

Since the FEMA "snow policy" changed in 2009, sand, salt and equipment operational costs cannot be counted as eligible costs unless there is a record or near-record snowfall. Theoretically, if we have another '98 ice storm event and it affected everyone like in '98, this policy does not help you. That is, unless you have significant tree and brush removal. Since we all do a reasonably good job of keeping our road sides trimmed, tree and brush removal is generally not going to get us to our thresholds for a disaster declaration.

I now put my faith and trust in the concerted effort put forth by the folks at MEMA, its Director, Bruce Fitzgerald, and Communications Director, Lynnette Miller, to effect a change in current policy. Thanks in part to their efforts, FEMA is committed to having a pilot program in place for next winter (starting October 2015), and MEMA asked that FEMA consider allowing Maine to be one of a few states to serve as early testers of the pilot. There are other players in the federal bureaucracy besides FEMA that will need to sign off on any pilot program concepts.

It is vitally important that our congressional delegation help stave off any bureaucratic bog down and support MEMA's effort. They cannot do it alone and we need your help.

Integrating School Nutrition Rules with Student Tastes

By MMA Staff

Compiled from input provided by several school nutrition workers

With childhood obesity and related diseases on the rise, it is understandable that the federal government would get involved by requiring publicly funded schools to serve students food that meets certain nutritional guidelines. However, those responsible for actually putting the food on the table believe the mandates should be developed with their input.

On Sept. 16, 2014, nine Maine nutrition program directors representing schools from Caribou to Scarborough and points in between had an opportunity to meet with U.S. Sen. Angus King's staff in Augusta. The purpose of the meeting was to provide those most impacted by the federal mandate an opportunity to share their thoughts on how best to move toward the goal of improving the eating habits of school age children. Janey Thornton, the Undersecretary for the U.S. Department of Agriculture (USDA) Food, Nutrition and Consumer Services, other representatives from USDA New England division and representatives from Maine's Department of Education participated in the meeting.

The new school lunch nutritional standards, adopted as part of the Healthy, Hunger-Free Kids Act, were signed into law by President Obama in 2010. According to the information posted on the USDA's Food and Nutrition Services website, the standards were promulgated to: (1) ensure that students are offered both fruits and vegetables every day of the week; (2) increase the use of whole grain-rich foods; (3) offer only fat-free or low-fat milk varieties; (4) base portion size and calorie content of meals on the age of children being served; and (5) reduce the amounts of saturated fat, trans fat and sodium in the food served.

Providing an effective school lunch program is a task that faces its share of challenges in the best of circumstances. There are the logistical challenges of organizing a lunch within a compressed time frame that minimizes student time spent standing in lines. Childhood food fears need to be sympathetically addressed, and cultural trends have made some children fundamentally adverse to the types of food now required by federal guidelines. There are stigmas associated with even participating in school-provided lunch programs. In some districts there is a perception that school food programs are only for low-income students; children who participate in school lunch programs are sometimes ridiculed. Even teachers have been heard to express their dissatisfaction with school lunch offerings as loudly as the students.

One of the most troubling challenges facing school nutrition directors is food waste. Posted on the USDA's website is a graphic comparing weekly school lunch menus offered before and after the enactment of the Healthy, Hungry-Free Kids Act of 2010. According to the graphic, on an average school day prior to the change students would be served a hot dog with roll and ketchup, raw celery and carrots with ranch dressing, canned pears and low-fat chocolate milk. After the change, a typical menu includes whole wheat spaghetti with meat sauce, a whole wheat roll, choice of green beans, broccoli or cauliflower, kiwi halves and low-fat milk. The menu change is dramatic, and school officials are noting that more food is being wasted.

Concerned officials in Regional School Unit (RSU) 4, serving the communities of Alton, Bradley and Old Town, conducted a food waste study in the district's largest schools in 2014. According to the findings, in a single day students threw out 66% of the fruits and vegetables the federal program requires to be served (90 lbs. of the 136 lbs. offered). A report from that school estimated that students in RSU 4 will choose not to eat \$21,000 worth of fruits and vegetables in one year. If that rate of waste can be extrapolated statewide, over \$3 million of food just in the fruits and vegetables category will be thrown out by Maine students each year.

Food program directors do not dispute that a chef's salad is a healthier choice than a bean and cheese burrito, and

whole wheat pizza is a more nutritious choice than its white dough alternative, but they believe the process for reshaping the palates of school age children needs to occur incrementally. One of the shortcomings of the Healthy Kids Act is that it appears to assume that all students are already eating these healthier foods at home, although many are not. As an alternative approach, students should be provided opportunities to explore the new choices, while still having access to some comfort foods. Through the process of slow and steady transition, students can become more accustomed to the tastes and textures of fruits, vegetables and whole grains.

School district food program directors are looking for opportunities to work with the federal government to implement programs that actually produce the intended outcomes. The participants at the Sept. 16 session were greatly appreciative of Sen. King's outreach and expressed interest in working collaboratively with federal policymakers to ensure that as Maine children have access to more nutritious foods in school, federal, state and local property taxpayer investments are protected.

Floodplain Insurance Uncertainty Can Hamper Economic Development

By Scott Morelli, Gardiner City Manager and Patrick Wright, Gardiner Main Street Director

Downtown Gardiner is the quintessential portrait of a New England community. Brick sidewalks lead pedestrians to a variety of eateries and retail stores. Historic brick buildings connect to one another and provide office space and living quarters that are essential components of a small town economy. From the top stories of these buildings, one can see the Kennebec River, a mere stone's throw from the downtown area and the site of many recreational activities for residents and visitors alike. But this same river that is such a beautiful and key natural resource to our community is also the cause for some recent economic uncertainty.

In the spring of 2014, Gardiner Main Street received a call from an individual who, in the course of due diligence in purchasing a property in our historic downtown district, received a quote for floodplain insurance that seemed outlandish. For \$175,000 worth of coverage with a \$1,000 deductible, the annual premium would be \$19,586! This seemed like an error. In August 2012, a floodplain policy was written with an annual premium of \$2,743. How could that have increased seven-fold in less than two years? After checking with the agent, we learned that the quote was indeed correct and that the increase was due to the implementation of the Biggert-Waters Act of 2012 (BW 12).

This federal legislation, which passed with broad bipartisan support in the wake of Hurricane Sandy, sought to fix the unsustainability of the National Flood Insurance Program. It accomplished the goal by phasing out subsidies for buildings located within flood plains that were built prior to the establishment of Flood Insurance Rate Maps (Pre-FIRM) and to apply the unsubsidized, actuarially correct insurance rate upon the sale of property located in a flood zone, equating to a \$19,586 annual premium on a \$175,000 building in spring of 2014. Federal law also says that buildings located in a floodplain must have flood insurance in order to obtain bank financing.

Across the country, Realtors and property owners panicked (as did municipalities, preservationists and economic development groups). In response, Congress passed the Homeowners Flood Insurance Affordability Act (HFIAA). This Act immediately restored subsidies for all affected properties, which gave us in Gardiner enough breathing room to move from panic to concern. As rulemaking ensued for the HFIAA, though relieved of the immediate burden, we remained in real estate purgatory, and the shadow of doubt on the future of the law continued to stigmatize us and cool the commercial real estate market that had just begun to show signs of emergence from the recession. As we geared up for a long and frustrating advocacy approach, Gardiner was listed on Maine Preservation's "Most Endangered" list as a poster child for this issue. Would the HFIAA apply to commercial buildings in our Historic Downtown?

After communications with dozens of state and federal officials, real estate professionals, insurance providers, congressional staffers and anyone else who would listen or might have an answer, we believe we have a straight, though not entirely complete, answer. Beginning in April of this year, Pre-FIRM commercial renewals can expect to see an increase close to the 18% cap established in the HFIAA. They can expect to see an 18% increase each year until rates reach their full, unsubsidized amount. However, we have been told by Bob Desaulniers, Insurance Specialist from FEMA Region 1, that Pre-FIRM "Historic" buildings will continue to get subsidized premiums, as will Pre-FIRM buildings that are at least 75% residential in use. What is not clear to us yet is how exactly FEMA will define "historic" buildings and the process of making sure that premiums are written such that historic buildings will receive their subsidies.

Thus, municipalities such as Gardiner that are blessed to have a river near the heart of their community must wait with bated breath to see the impact these federal changes could have on economic development.

Assisting Immigrants – The City of Lewiston’s Experience

By Sue Charron

Social Services Director, City of Lewiston

Every municipality in the State of Maine administers a General Assistance (GA) program defined in state statute as a program for the “*immediate aid of persons who are unable to provide basic necessities essential to maintain themselves or their families.*” The General Assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing “grant-in-aid” or “categorical” welfare program. In a nutshell, the state/municipal GA program is designed to provide assistance to qualifying individuals who are in need when no other federal, state or privately funded program is available. It is truly a program of last resort.

However, the safety net intent of the GA program, particularly in the cities of Lewiston and Portland, has become buried beneath the federal government’s flawed immigration policies and practices. Consequently, the municipal general assistance program has by default become the lifeline for individuals and families fleeing their countries to seek asylum.

As a result, the GA program becomes one of very few resources available to assist asylum seekers as they wait for the federal government to issue a decision. Since 2001, the city has been providing assistance to both secondary refugees and asylum seekers choosing to make Lewiston their home. Secondary refugees are immigrants who are authorized by the federal government to settle in the U.S. and choose to relocate from their state of initial resettlement to another state. During the first eight months of settlement secondary refugees are provided a package of federal benefits, as well as the documentation necessary to work in the country.

Asylum seekers, on the other hand, come to the United States in search of refuge from persecution in their homeland, or they fear future persecution on account of race, religion, nationality, political opinion or membership in a particular social group. Unlike secondary refugees, asylum seekers are ineligible for work permits until 180 days have elapsed from the date that U.S. Citizenship and Immigration Services (USCIS) acknowledges receipt of their asylum application (I-589). In addition, they are ineligible for any other federal benefit until actually granted asylum.

In FY 2010, the City of Lewiston provided \$122,617 in aid to 73 asylum seekers. In 2014, 160 asylum seekers received \$152,470 in aid. In just the first six months of FY 2015, 159 asylum seekers have received \$116,349 in GA. By comparison, the City provided \$77,147.71 in aid to secondary refugees in 2010, \$23,047 in 2014 and \$12,428 in the first six months of FY 2015.

Deputy City Administrator Phil Nadeau observes in the City of Lewiston’s 2014 Federal Issues Report that, “...*the initial process for filing for asylum is now more problematic given the Immigrant Legal Advocacy Project’s (ILAP) inability to process these applications, which is the direct result of an increase in applications, and the reported problems nationally with processing work authorizations for asylum applicants. Asylum seekers are now required to seek their own legal assistance and to file for their asylum authorizations directly with the USCIS office in Boston. This is notable given that any delay in the filing process has a direct impact on when the asylum seeker can file for their Employment Authorization Document (also referred to as the “EAD” or Form I-765, Application for Employment Authorization). Any error, processing problem, applicant request for delay, or other reason which may cause the process to stop or be suspended stops the so-called “EAD” clock. Additionally, any error or other problem with the initial filing of the I-589 will cause the EAD process to be further delayed which is important as the 180 days during which the applicant must wait for the EAD can only begin once the I-589 has been formally filed with USCIS.*”

For a significant majority of asylum seekers, any delay in the employment authorization process not only serves as a barrier to economic self-sufficiency, but places the economic burden of supporting the individual and/or a family directly onto the shoulders of the community. For communities like Lewiston, which has one of the largest numbers

of asylees and asylum seekers in the state, this burden lies in direct conflict with Senator Kennedy's vision of the 1980 Refugee Act and its promise to ensure "...that local citizens will not be taxed for programs they did not initiate and for which they are not responsible."

Lewiston's September 2014 Federal Issues Report focuses not only on the issues that are directly impacting the city, but also on the recommendations that would alleviate some of the obstacles. The 180-day wait period proves to be especially difficult to comprehend since many of the recent arrivals are educated and work ready. Several of these general assistance recipients have become employed within a very short time of receiving their work document and are able to support themselves and their families without municipal funds.

The 5-6 month delay in processing renewal employment authorization documents is also a concern. This delay, coupled with the fact that an individual is not allowed to apply any earlier than three months prior to the expiration date of the unexpired work document, is especially troubling because families are being terminated from employment and being forced to again rely on municipal assistance for their basic needs.

In recent months a large family reapplied for assistance because the family member who had been gainfully employed for almost one year was terminated due to the expiration of his work document. This individual did everything he was supposed to in order to receive his work document in a timely fashion. However, due to the backlog in processing the work document applications, this family is no longer self-sufficient.

During the last week of January 2015, an employee of the Lewiston Social Services department was terminated due to the expiration of her work document. This person also applied in a timely manner but, because of the backlog in processing the work document, this person may be forced to rely on municipal assistance until she is issued her work document.

Individuals and families are suffering unnecessarily. Employers are impacted by the loss of trained employees and become resistant to hiring individuals with work documents who may eventually lose the right to work due to these delays. The burden to the local taxpayers is two-fold. There is the initial time and cost associated with those seeking asylum, as well as the time and cost associated with those returning for assistance due to the delay in issuing renewed work documents.

The flaws in the current immigration policies and practices are obvious and the recommendations that would eliminate the flaws are just as obvious. The City of Lewiston is ready and willing to work with Maine's Congressional Delegation to develop solutions to address the immigration issues impacting municipalities.

The Affordable Care Act and its Effects on Municipalities

By MMA Staff

With input from municipal officials in South Portland and Presque Isle

The federal Affordable Care Act (ACA) was passed nearly five years ago, and its implementation continues. One provision of the law that has provoked a great deal of discussion and concern among municipal employers recently is the ACA's definition of a "full-time employee," especially when considered in light of the ACA's Employer Shared Responsibility requirements.

The Employer Shared Responsibility provision states that employers with **100 or more** full-time/ full-time equivalent employees may be subject to a penalty if they do not offer health insurance coverage to the majority (70% in 2015; 95% in 2016) of their eligible full-time employees, or if the coverage they offer does not meet certain criteria (including affordability) as defined by the ACA. The penalty provisions expand to include employers with **50 or more** full-time/ full-time equivalent employees in 2016.

Who Is a Full-Time Employee?

Many municipal employers consider a "full-time" employee to be one who works at least 37.5 to 40 hours per week on a regular basis. The ACA, on the other hand, defines "full-time" employees as those working 30 or more hours per week.

This discrepancy could have a significant financial impact on employers with employees who work between 30 and 40 hours per week. Why? It's not so much that municipalities will have to offer coverage to employees working between 30 and 40 hours per week. Many of them already do that. It's that the coverage offered will need to meet the ACA's definition of affordability. (For purposes of this article, we will assume that all municipal employer-sponsored plans meet the ACA's requirements for "minimum value," with an actuarial value of at least 60%.)

What Is "Affordable" Coverage?

Under the terms of the ACA, coverage is affordable if the employee's premium contribution for self-only coverage, for the least expensive minimum value plan offered by the employer, does not exceed 9.5% of income. It's important to note that affordability is not necessarily based on the plan and level of coverage in which the employee is actually enrolled, but upon the cost for self-only (single) coverage under the least expensive plan offered by the employer.

The employee's income is calculated using one of three "safe harbors" defined by the IRS: the Federal Poverty Level, Rate of Pay, or W-2 safe harbor. If coverage meets the definition of "affordable" for the employer's lowest paid employee, it will be affordable for all other employees that earn more.

So, for example, if a municipality offers three different health plans to its full-time employees, and single coverage under the least expensive plan meets the ACA's definition of "affordable," the employer has met the requirements of the ACA for those employees. This is true even for employees enrolled in family coverage under the most expensive plan.

The problem arises when an employer defines "full-time" employees as those working 37.5 hours per week (for example) rather than 30 hours per week, as required by the ACA. Many of these employers still offer health coverage to employees working fewer than 37.5 hours per week, but will require those employees, considered by the employer to be "part-time," to contribute more to their health premiums than employees working on a "full-time" schedule of 37.5 hours. This may result in the coverage becoming "unaffordable" (as defined by the ACA) for those employees working less than the employer's definition of "full-time," which then may result in the employer being assessed a

penalty if one or more of those employees purchases coverage, and receives a subsidy, through the Health Insurance Marketplace or Exchange.

To avoid the possibility of incurring such a penalty, large employers are faced with two less-than-appealing alternatives: Reduce the hours for those employees that the employer considers to be “part-time” to less than 30 hours per week and discontinue their coverage; or, continue current practices and face the possibility of incurring a significant penalty if any employee working 30 or more hours per week receives a subsidy through the Exchange.

Here are stories from two large Maine municipalities, describing how they are dealing with this issue:

South Portland

The City of South Portland currently provides full-time benefits to employees working 35 or more hours per week, and part-time benefits (i.e., the same health plans, but with a greater employee contribution toward premiums) to those working between 20 and 35 hours per week. The city has four year-round, part-time employees who are working between 30 and 34 hours per week. These employees are not eligible for full-time benefits.

The city now has to keep a very close watch to ensure that “part-time,” seasonal employees do not work more than 29 hours per week. This can be difficult to manage, especially when it comes to employees working for the Public Works Department hired to supplement the full-time crew with winter plowing and snow removal after large snowstorms.

According to Don Brewer, South Portland’s Director of Human Resources, it is difficult to attract and retain these part-time employees to work during the winter months. This has an impact on services provided to city residents, especially when it comes to a winter like the current one, with a lot of snow that needs to be plowed.

And it’s not only the Public Works Department that feels the effect. Other part-time, seasonal employees work in the Parks & Recreation Department in the spring, summer and fall. Keeping their hours below 30 hours per week will most likely impact the delivery of services and programs to South Portland residents.

The city also employs approximately 40 part-time “Call Company” firefighters to supplement the full-time firefighters during emergency medical services and fire suppression calls. The city now must track the hours worked by these on-call firefighters to keep them under 30 hours per week.

Presque Isle

The City of Presque Isle employs a number of individuals who work fewer than 35 hours per week – for example, Parks and Recreation employees who plan activities for area youth during summer months, and Airport employees who drive snowplows in the winter. These employees are considered by the city to be “part-time.” Thus, they are not covered under the city’s health plan.

Due to the extreme seasons in northern Maine, part-time and seasonal employees (especially those driving snowplows) may end up working for the city longer than originally planned. These employees frequently stay on with the city during the summer months, sometimes working in different departments, but for far fewer hours.

Depending on the weather, and how many snowstorms there are, some of these employees could average more than 30 hours per week for a long enough period of time during the year that the city would be required to offer them coverage in order to comply with the ACA’s definition of a “full-time” employee. This would result in a substantial increase to the city’s budget.

This has also been an issue within the city’s fire department, where seasonal firefighters frequently average more than 30 hours per week during the summer months, in order to cover vacations for full-time firefighters.

According to Deputy City Manager Martin Puckett, the city has changed its employee policy to require that part-time employees can work no more than 29 hours per week, in order to avoid the substantial expense of offering all of these “part-time” employees “full-time” benefits as required by the ACA. This means that the city had to hire more part-time employees, and spend more time and money training those employees.

What Should Employers Do?

There is no quick and easy answer to this problem. On the one hand, municipal employers want to do the right thing and offer quality, affordable health care coverage to all of their full-time employees. On the other hand, extending the definition of “full-time” employees down to 30 hours per week (from the more commonly used 37.5 or 40 hours per week) will impose a significant financial hardship on many of these municipal employers.

If employers are no longer able to pro-rate the amount of employees’ premium contributions to align with their hours worked, those employers will be faced with an uncomfortable decision. They will either raise taxes to cover these additional expenses, or they will simply change the number of hours their employees are allowed to work, to 29 or fewer (for part-timers) or 37.5 or 40 or more (for full-timers). The employers will thus be able to avoid the additional costs imposed by the current ACA language; that is, either providing – and paying for – coverage for additional employees, or facing a penalty.

Many employees, however – those currently considered as “part-time” by the employer but “full-time” by the ACA – may see their hours cut and perhaps even eliminated. They may also see the health insurance benefits that they currently have (though not considered “affordable” under the ACA) terminated altogether, if their hours are reduced below a certain level.

A solution needs to be found.

Clean Water Act Compliance

By MMA Staff

Based on input provided by stormwater managers from several regions of Maine

Since a court ruling in 2003, EPA has been ordered to revise portions of the Stormwater Program that deal with urban runoff because of inconsistencies with the Clean Water Act. Ten years later, in 2014, EPA presented a four-pronged approach to strengthen the Stormwater Program. The four strategies were:

1. Ensure projects utilizing federal money adhere to the Clean Water Act and do not cause or contribute to water quality violations.
2. Increase enforcement to ensure compliance with municipal stormwater permits.
3. Reach out to municipalities that are likely to have stormwater permit requirements under the next permit cycle.
4. Provide technical assistance to municipalities.

Recent EPA actions in Maine are consistent with the first and second elements of the four-part strategy. A number of Maine municipalities have been inspected in 2014 by EPA for Clean Water Act compliance. Although monetary fines and penalties have yet to be determined, the cost of these enforcement actions are adding up, including unanticipated staff time, legal and technical support.

With that said, the federal outreach and technical assistance proposed in the third and fourth components of EPA's response to the court ruling have yet to be richly experienced in Maine.

Municipal officials remain hopeful that the EPA's enforcement methods embrace all of the prongs of the agency's approach to managing stormwater compliance under the Clean Water Act. Commitments regarding outreach and the provision of technical assistance were also made by the EPA to municipal officials and federal delegates at a 2014 stakeholder meeting hosted by the Maine Municipal Association. The EPA enforcement messages have been received by the municipal community. We are looking forward to experiencing the outreach and technical assistance side of the EPA's service delivery.



Maine Municipal Association

OUR MISSION

The mission of the Maine Municipal Association is to provide professional services to local governments throughout Maine and to advocate their common interests at the state and national levels.

OUR CORE BELIEFS

We believe in:

- Local government as the keystone of democracy.
- Representative and participatory local government.
- The accessibility and accountability of municipal government officials.
- A commitment to honesty, integrity and the highest ethical standards among public officials.
- The vital intergovernmental role of municipal governments in providing basic services essential to public safety and the functioning of our economy.
- The individuality of each local government.
- The value of collaboration as a means of strengthening cities and towns and providing needed services.

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