

# Maine Town & City

The magazine of the Maine Municipal Association

JULY 2018

## Smoother Waters Could Be Ahead

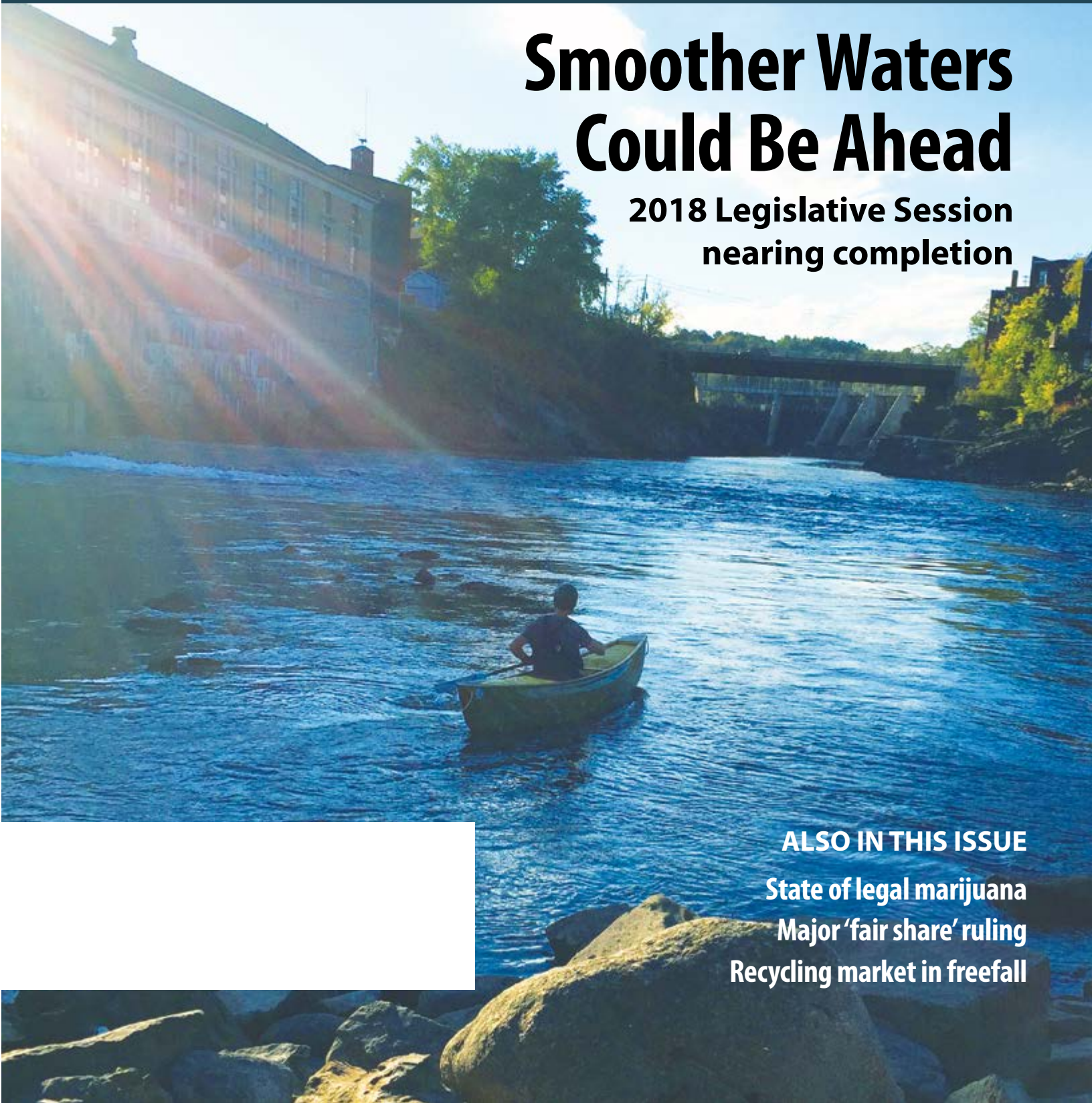
2018 Legislative Session  
nearing completion

ALSO IN THIS ISSUE

State of legal marijuana

Major 'fair share' ruling

Recycling market in freefall





# Maine Municipal Employees Health Trust

QUALITY  
BENEFITS

INNOVATIVE  
PROGRAMS

EXCEPTIONAL  
SERVICE



For Over 30 Years...  
*The Difference is Trust.*



1-800-852-8300

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



## EXECUTIVE COMMITTEE

### PRESIDENT

*Linda Cohen*

Mayor, South Portland

### VICE PRESIDENT

*Mary Sabins*

Town Manager, Vassalboro

### MEMBERS

*Elaine Aloes*

Chair Selectboard, Solon

*Rick Bates*

Town Manager, Rockport

*James A. Bennett*

City Manager, Biddeford

*William Bridgeo*

City Manager, Augusta

*Jill Duson*

Councilor, City of Portland

*Gary M. Fortier*

Councilor, Ellsworth

*Suzannah Heard*

Chair Selectboard, Arrowsic

*James Gardner, Jr.*

Town Manager, Easton

*Christine Landes*

Town Manager, Bethel

### IMMEDIATE PAST PRESIDENT

*Laurie Smith*

Town Manager, Kennebunkport

### EXECUTIVE DIRECTOR

*Stephen W. Gove*

### MAGAZINE STAFF

*Eric Conrad*, Editor

[econrad@memun.org](mailto:econrad@memun.org)

*Valarie Pomerleau*,

Circulation Manager

*Jaime G. Clark*

Graphic Designer/Advertising

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

© 2018 Maine Municipal Association.  
All rights reserved.

MAINE TOWN & CITY (ISSN 2578-4374) is published monthly, except in September, 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 Town & City, 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.



# Maine Town & City

July 2018 | Volume 80 | Issue 7

The Magazine of the Maine Municipal Association

## FEATURED SECTION | 34

### 2018 Convention Lineup



*From transportation to elections, the economy to local planning, this year's Maine Municipal Association Convention will keep you a step ahead.*

**The U.S. Supreme Court** issued a major ruling about labor unions and 'Fair Share' dues payments. Municipalities must comply. **Page 20**

**Maine cities, towns** and recycling operations are on the receiving end of a solid-waste standoff between China and Washington, D.C. **Page 27**

**ABOUT THE COVER:** This photo, submitted by Main Street Skowhegan, shows the glory of the Kennebec River gorge.

## Legislative Wrap

**The work is not done yet:** State legislators have completed much of the 2018 session, with good news on marijuana and mixed results elsewhere.

**Page 7**

## Marijuana Legalization

**We expect this issue** will continue to bedevil future Legislatures, but this one made progress on the use of medical and recreational marijuana. **Page 9**

## New Laws

**Our State & Federal Relations** staff compiles its annual list of newly passed state laws that will affect municipal government. **Page 13**

<b>Risk Manager</b>	<b>23</b>
<b>People</b>	<b>42</b>
<b>News</b>	<b>43</b>
<b>Bulletin Board</b>	<b>44</b>
<b>Legal Notes</b>	<b>45</b>

### FIND US!



[www.facebook.com/MaineMunicipal](http://www.facebook.com/MaineMunicipal)



[@Maine\\_Municipal](https://twitter.com/Maine_Municipal)

---

# **WHEN YOUR IRON FITS YOUR CHECKLIST, YOU KNOW YOU'VE FOUND YOUR DEALER.**

---

- **Meet lifecycle costing and get peace of mind.**
  - **All the options – new, used and returned-from-rent.**
  - **The inventory you need is here, now.**
  - **A complete work tool range expands your choices.**
  - **Experienced sales staff doesn't waste your time.**
  - **Parts availability never an issue**
  - **Unbeatable resale value.**
- 

**Scarborough, ME  
207-883-9586  
16 Pleasant Hill Rd.**

**Brewer, ME  
207-989-1890  
79 Robertson Blvd.**

**Milton** 

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



## A MESSAGE FROM MMA

BY STEPHEN W. GOVE / EXECUTIVE DIRECTOR

### MMA dues formula will see an adjustment

**N**o one knows better than municipal officials how changes in state valuations can impact state aid. Think school funding, through the Essential Programs and Services formula or Municipal Revenue Sharing (notwithstanding the cuts made to this important program.)

The Maine Municipal Association's (MMA) municipal member dues formula is no different. It uses state valuation (50 percent) and population (50 percent) to determine members' annual contributions. The MMA dues formula has included a corridor, or limit, to a member's dues adjustment above or below the average dues adjustment. MMA first recognized in 2013 that the corridor, which was 25 percent at the time, was unintentionally preventing the formula from adequately adjusting to changes in members' population and valuation. Valuation was changing more often and more dramatically than population.

In 2014, the MMA Executive Committee broadened the corridor from 25 percent to 50 percent above or below the average and employed a variance adjustment that was added to or subtracted from a member's dues after the basic formula adjustment. These changes were designed to address inequity in the formula, given dramatic increases in valuations for some members (think coastal and lake communities) and dramatic decreases in valuations for other members (think paper mill closings). From 2014 through 2018, our Executive Committee has attempted to address the inequities caused by the formula's corridor by changing the variance adjustment annually. We made some progress in addressing "outlier" members with these adjustments, but not at a pace or to a degree that kept up with real estate market changes.

MMA's Strategic & Finance Committee spent several meetings in 2017 and the first half of 2018 reviewing the dues formula. Think revaluation. On June 21, the Executive Committee approved recommended changes to the formula presented by the Strategic & Finance Committee. For

2019 and beyond, the 50 percent corridor will be eliminated, allowing valuations to ebb and flow in the formula without limits. The formula will also no longer include variance adjustments.

Individual municipal members will be affected by the transition to a new dues formula to different degrees depending on their declining or growing state valuations. Some will experience dues decreases in 2019; some will experience dues increases. Most members will experience only minor to moderate dues adjustments in 2019, above what would have occurred under the old formula.

The Executive Committee recognizes that immediate and full adoption of an amended dues formula may create budget problems for some members. With that in mind, MMA has developed a phase-in plan. Members who would receive dues adjustments with a minimum \$1,000, or 15 percent, increase due to the formula changes will be eligible for credits they may use to moderate the movement to their calculated or indicated dues under the new formula. The Executive Committee has earmarked MMA reserve funds to provide 50 "under assessed" members with credits that they may spread out over a period of up to three years to ease their movement to their indicated dues level. These are communities with valuations that have grown significantly.

On the flip side, a number of communities with valuations that have declined may experience dues reductions or only minor increases in 2019.

No formula is perfect, as we know from state aid formulas. Equity and fairness are our paramount goals. The Executive Committee believes that a new dues formula will ensure greater equity for all municipal members.

If you have questions about our dues formula change, please contact me ([sgove@memun.org](mailto:sgove@memun.org)) or Theresa Chavarie, Manager, Member Relations at [tchavarie@memun.org](mailto:tchavarie@memun.org). We can both be reached at 800-452-8786. ■

LOCAL GOVERNMENT  
*begins with* YOU®

# - 2018 -

## Elected Officials Training Opportunities

### Elected Officials Workshops

#### Who Should Attend:

This workshop is a "must" for newly elected and veteran officials-councilors & select persons-as well as a wonderful opportunity to learn key points of your new position while networking with officials from around the state. (Qualifies as Maine FOAA Training.)

- What are our rights and duties as officials?
- Can we hold multiple offices?
- Which of our meetings are open to the public?
- Must we have an agenda and take minutes?
- What ordinances can we enact?
- What authority do we have over the schools?
- What are our liabilities and immunities?
- What is a disqualifying conflict of interest?

As part of our ongoing efforts to bring training to our members, MMA is pleased to announce that this course will be offered in two formats: In classroom and remotely at the Northern Maine Development Commission in Caribou.

A perfect opportunity for elected officials to take advantage of the expertise that the Maine Municipal Association has to offer, attain a better understanding of their role as public officials, and stay abreast of local government responsibilities and issues. **Course meet state FOAA training requirements (Right to Know).**

### Managing Freedom of Access Requests

#### Who Should Attend:

This timely workshop is aimed at helping municipal staffs, newly designated "Public Access Officers" and elected and appointed officials understand Maine's Freedom of Access Act, why FOAA requests are filed and how to handle them properly. (Qualifies as Maine-required FOAA Training).



Online registration is easy!

<http://www.memun.org/TrainingResources/WorkshopsTraining.aspx>

#### Elected Officials:

##### Dates & Locations:

**South Berwick – 8/29/18**  
Spring Hill

**Orono – 10/30/18**  
Black Bear Inn & Conference Center

**Bethel – 12/6/18**  
Bethel Inn

**Augusta – 12/18/18**  
Maine Municipal Association  
**\*\*With Live Video Conference to Caribou\*\***  
Northern Maine Development Commission

#### Managing Freedom of Access Requests

##### Dates & Locations:

**Portland – 12/11/18**  
Embassy Suites by Hilton



Maine Municipal Association  
60 Community Drive – Augusta, ME  
1-800-452-8786  
[www.memun.org](http://www.memun.org)

# In spite of a rocky session, local governments paddle forward

*The Legislature has most of its work in the rear view mirror, but will return this summer.*

By Kate Dufour, Director State & Federal Relations, MMA

The picture that graces the cover of this edition of *Maine Town & City* provides a near perfect visual depiction of the 2018 legislation session. Over the last six months, municipalities, schools and counties have navigated many rocky stretches. Although the Legislature's work is not yet done, calmer waters can be seen on the horizon.

## Senior tax lien foreclosures

By far, the toughest and most contentious issue of the session was Governor Paul LePage's senior tax lien foreclosure bill, LD 1629, which remains on the Legislature's "to do" list.

Described by many as a "solution in search of a problem," the bill, as originally printed, proposed to establish procedures allowing senior homeowners, regardless of financial capacity, to walk away from their property tax obligations and continue to live in their homes for several decades before a municipality could hire the required real estate broker to sell the home, for nothing less than the property's assessed value. After that, the municipality would have had to return all revenue to the delinquent property owner in excess of the property taxes owed and other fees accrued to the municipality.

The sensitive subject matter – keeping Maine's seniors out of foreclosure – caused political lines to be drawn in the early stages of the bill's process, making it difficult to discuss the legislation on the basis of merit and need. In an all or nothing fashion, opponents of the bill were described as scammers, greedy and enemies of the elderly.

Although many municipal officials and legislators alike believe that LD 1629 is unnecessary, the Taxation Committee succumbed to the political pressure to "do something" and unanimously voted to advance an amended version

of the bill for the full Legislature's consideration. To be fair, the committee's version of the bill encompasses some of the recommendations offered by the opponents of the bill, but not all.

The committee amendment adds a third notice to the existing pre-foreclosure process requiring that when the tax lien certificate is filed with the Registry of Deeds, the municipal treasurer must notify all delinquent homeowners who are receiving the homestead exemption of the right to apply for a poverty tax abatement and the right to contact the Bureau of Consumer Credit Protection for assistance in working with the municipality to avoid foreclosure. This new requirement has been identified as a mandate and, to the committee's credit, the bill includes a fiscal note obligating the state to reimburse municipalities for 90 percent of the costs associated with implementing the proposed changes, currently estimated at \$825,000.

The version of LD 1629 supported by the committee also amends the way municipalities dispose of the tax-acquired property previously owned by certain senior residents. As proposed, after the foreclosure process is complete and the right of redemption has expired, the municipality is required to enter into a six-month contract with a licensed real estate broker to sell tax-acquired property owned by a resident 65 years of age or older, provided that prior to the foreclosure the resident received the homestead exemption, had household income of less than \$40,000 and liquid assets of less than \$50,000 (\$75,000 for a multi-person household). If the home does not sell in six months or the community is unable to find a broker willing to list the property, the municipality is then authorized to sell the property according to the

method used to dispose of all other tax acquired property. The amended bill further requires that 100 percent of the sales revenue, less the costs incurred by the municipality to manage and dispose of the property, back taxes, interest and fees, be returned to the previous owner.

LD 1629 received initial support from the House, and at the time of publication was tabled in the Senate. It is expected that the Legislature will cast its final vote on the bill this month.

## Marijuana legislation

On the more positive side, members of the Legislature also advanced municipally relevant improvements to the recreational and medical marijuana laws.

Through the enactment of LD 1719, *An Act to Implement a Regulatory Structure for Adult Use Marijuana*, municipalities received the broad local control necessary to regulate the citizen adopted recreational marijuana legalization law. Not only does the law provide municipalities with the tools necessary to regulate nearly every aspect of this new industry, state-licensed commercial entities may not operate until the municipality where they are located adopts an ordinance or warrant article authorizing those activities. On the medical marijuana front, LD 238, *An Act To Amend the Maine Medical Use of Marijuana Act* and LD 1539, *An Act To Amend Maine's Medical Marijuana Law* provide municipalities with much needed regulatory control over medical marijuana caregiver commercial homebased operations, as well as caregiver retail stores. A more detailed description of these bills is provided in a separate article published in this edition of the magazine.

## School and county jail funding

The Legislature also responded to the funding requests made by school and county officials.

LD 1869, *An Act To Establish the Total Cost of Education and the State and Local Contributions to Education for Fiscal Year 2018-19*, appropriates nearly \$1.3 billion as the state's share of K-12 education for fiscal year 2019. Of that total, \$1.1 billion is used to fund expenditures the Essential Programs and Services (EPS) funding model calculates as necessary to educate students, and \$181 million goes to the unfunded actuarial liabilities (UAL) of the Maine Public Employees Retirement System attributable to teachers. The mill rate expectation is calculated as 8.48 mills and the required local share for K-12 education is \$1.1 billion. Although the state is making progress towards its statutory obligation to fund 55 percent of the cost of K-12 education, the effort continues to fall short. When calculating the state share of total K-12 education on the basis of the EPS model only, the state contribution is 49.6 percent of total cost. When the UAL payment is added to the mix, the state's share increases to 53.3 percent.

Through the enactment of both LD 924, *An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government* and LD 1490, *An Act Regarding Community Corrections Funds*, the Legislature provided county governments \$3 million in jail operations revenue necessary to finish out FY 2018, and \$18 million for FY 2019, thereby avoiding shifting additional jail related costs onto the property taxpayers. Although state lawmakers implement the policies dictating who is imprisoned, for what length of time, and whether they are housed in a state prison or county jail, state funding covers roughly 20 percent of total jail operation costs.

The governor must approve these proposals before the state financial assistance authorized by these bills can be distributed to schools and counties. Although the governor has already vetoed LD 924, the Legislature will have the opportunity to override his decision on LD 924 and all other vetoed bills when it reconvenes the week of July 9.

An update on these bills' final enactment status will be published in

the August/September edition of this magazine.

## Looking ahead

With the 2017-2018 legislative session nearly behind us, MMA's advocacy team is focusing its attention on the Nov. 6 General Election by encouraging municipal officials to connect, meet and discuss issues of municipal importance with candidates for state office. The goal is to help municipal officials develop working relationships with legislative hopefuls that can be maintained well after the election. To support that effort, in mid-July each municipality will receive a local advocacy tool kit, which will include a copy of the 2018 Municipal Issues Paper, now posted on MMA's website ([www.memun.org](http://www.memun.org)). The paper outlines the evolution of the state/municipal partnership, its erosion over the last decade and the need to restore that partnership as a means of providing efficient and effective government services to all of Maine's residents, businesses and visitors.

MMA's State & Federal Relations Department staff is currently conducting the election of the 2018-2020 Legislative Policy Committee. The 70-member Policy Committee, which is represented by two municipal officials from each of the state's 35 Senate Districts, is elected in the summer of each even numbered year by the boards of selectmen and councils in each district. Ballots were mailed out in June and are

due back to the Association no later than Aug. 2. Please note that it is not too late for eligible municipal officials to run as a write-in candidate to serve on the LPC. For more information on the write-in process please contact Laura Ellis at 1-800-452-8786 or [lellis@memun.org](mailto:lellis@memun.org).

Once the LPC is elected, its first charge will be to adopt the Association's two-year legislative platform, which includes the policy initiatives MMA will advance to the next Legislature for its consideration. A description of that platform will be published in the December edition of *Maine Town & City*.

## Thank you

Lastly, MMA's advocacy staff thanks Sen. Brian Langley of Hancock County and Rep. John Madigan, Jr. of Rumford for allowing the Legislative Bulletin to be distributed to all members of the House and Senate each week the Legislature was in session. Best wishes to Sen. Langley who, due to terms limits, it not running for office this year. ■



Sen. Brian Langley



Rep. John Madigan, Jr.



Creating  
Opportunity for  
Nearly 150 Years

Androscoggin Bank serves municipalities, schools, utility districts and counties across Maine. With decades of combined municipal management experience we have developed creative solutions built just for you and your citizens.

Contact Jason Simcock  
207.376.3562 • [jsimcock@androscogginbank.com](mailto:jsimcock@androscogginbank.com)

1-800-966-9172

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



**Androscoggin  
Bank**



# Legislature answers calls to clarify marijuana laws

*Medical marijuana law changes are still subject to veto. Legislation progressed well on balance, although financial recognition of the local enforcement burden is a sore spot.*

By Garrett Corbin, Legislative Advocate, State & Federal Relations, MMA

In the wake of the marijuana legalization referendum passed some 20 months ago, a number of important questions have cropped up related to the regulation of both the existing medical as well as the looming non-medical marijuana industries. Heading into the 128<sup>th</sup> Legislature, the Maine Municipal Association's Legislative Policy Committee made it a priority to close a number of loopholes and remove the cloud of legal uncertainty that had been casting a shadow over local efforts to ensure that marijuana businesses are subject to the same ordinances and codes that apply to other businesses.

In the second regular and second special legislative sessions this year, members of the House and Senate did an admirable job of addressing most municipal issues with the non-medical Marijuana Legalization Act, while also managing to address a fundamental ambiguity regarding local regulation in the Medical Use of Marijuana Act. The Legislature also moved to apply a new "opt-in" provision to all commercial sales, both medical and non-medical, requiring approval of the local legislative body before new marijuana businesses can operate legally. The law is now opt-in for non-medical establishments, and poised to become opt-in for medical ones as well.

At the time of printing, it was still unclear whether the two bills addressing the medical act will be vetoed and, if so, whether the veto will be overridden or sustained. More on that at the end of this article.

## Brief history of marijuana regulation

By regulating medical and non-medical marijuana through two sepa-



*This new "boutique" is located along Route 202 in Manchester. (Photo by Ben Thomas)*

rate chapters of law, this story has developed into something of a Tale of Two Citizen Initiated Acts. The first came about when Maine voters legalized the medical use of marijuana in 1999, by a margin of 61-39 percent at referendum. Maine's Medical Use of Marijuana Act (MUMA) has stayed in place since that time, evolving through various amendments and generally authorizing certified "caregivers" to dispense the medicine to patients who have received a doctor's certification qualifying them for treatment.

In 2016, voters approved legalizing the consumption of the plant for non-medical purposes as well, albeit by the razor thin margin of 50.3 percent to 49.7 percent. This more recent effort, enacted as the Marijuana Legalization Act (MLA), has been referred to as legalization for "recreational" or "adult use" purposes. This act authorizes a right for persons 21 years of age and older to grow and possess marijuana in private, as well as a privilege for re-

lated commercial business enterprises to operate subject to licensing and regulation.

## Non-medical law solidified

Just months after the referendum vote, the Legislature in its first session last year bought time to iron out the wrinkles in the voter-adopted MLA by enacting three bills addressing issues that needed to be resolved immediately. One of those bills delayed the agency rulemaking deadline for the state's commercial licensing program until Feb. 1, 2018, effectively imposing a year-long statewide moratorium on the commercial aspects of the new law. With the commercial implementation date delayed to 2018, the Senate President and Speaker of the House established a new 17-member Marijuana Legalization Implementation Committee, comprised of five senators and 12 representatives.

After eight months of public hearings and work sessions, 15 members

of the committee voted to support the 73-page bill printed as LD 1650, An Act to Amend the Marijuana Legalization Act. Although LD 1650 was passed to be enacted by both chambers during the first special session of the Legislature in October 2017, the bill ultimately died when, on Nov. 6, the House fell shy of the two-thirds majority margin necessary to override Governor Paul LePage's veto.

This year, the committee rolled up its sleeves, redoubled its efforts, and reformed LD 1650 into LD 1719, An Act to Implement a Regulatory Structure for Adult Use Marijuana. The reincarnated 82-page bill managed to garner the support of 16 of the 17 committee members, pass to be enacted in the House and Senate, and gain enough votes to overcome another gubernatorial veto on the final day of the second regular legislative session on May 2 of this year.

#### New and improved law

As a result of the amendments

made in the enacted bill (now Public Law 2017, Chapter 409), the MLA now provides the framework necessary for the new agency of oversight, the Department of Administrative and Financial Services, to begin drafting the detailed rules governing the licensure and regulation of the commercial elements of the law.

Because LD 1719 removed the licensing deadline, it is unclear when the department's rules will be promulgated, but they will govern the licensure of four types of business enterprises or establishments: cultiva-

tion, manufacturing, testing and retail. Public consumption is still not allowed under the new act, even in a licensed commercial establishment. The original act's allowances for "social clubs" as well as online delivery, drive-through, and vending machine dispersal have been repealed by LD 1719 and are no longer authorized.

As referenced above and described in the New Laws article printed in this edition of the magazine, LD 1719 includes a municipally welcome change to the act allowing towns, cities and plantations to affirmatively "opt-in"



civil & environmental engineering  
[www.underwoodengineers.com](http://www.underwoodengineers.com)

# LEGAL REDEFINED

Our Municipal Law and Finance Group is rewriting the definition of municipal legal counsel in Maine, integrating comprehensive general counsel experience with trusted municipal finance services.

Stephen E.F. Langsdorf, Partner  
[slangsdorf@preti.com](mailto:slangsdorf@preti.com)

Kristin M. Collins, Of Counsel  
[kcollins@preti.com](mailto:kcollins@preti.com)

**207.623.5300**

45 Memorial Circle  
Augusta, ME 04330

**PretiFlaherty**  
preti.com

Portland Augusta Concord Boston Washington D.C.

to regulate some or all types of commercial establishments within the municipality before those establishments are permitted to operate. All municipalities which have not taken action to authorize establishments are effectively deemed to have opted-out, meaning commercial marijuana operations are prohibited. Establishments may not apply for authorization to operate unless the municipality's legislative body has adopted an applicable ordinance or approved a permissive warrant article.

### Fiscal fail

Along with this extremely positive opt-in revision came an almost equally unfortunate financial development. For a variety of reasons that even in hindsight remain unclear, the requirement that the state share with host municipalities a relatively small portion of the sales and excise tax revenue gener-

ated by the new regulated marijuana industry was repealed from the law.

Drawing from experiences in other states that have legalized adult use, and from Maine's history with medical marijuana operations, local administrative and enforcement-related costs are likely to be significant. Those cost include, but are far from limited to: increased risk of fires and power outages as a result of faulty electrical wiring or extraction operations; mold resulting from the moisture created when plants are grown indoors, causing habitability and resale issues; fertilizer runoff that can negatively impact wastewater and storm water treatment efforts; increased water intake/usage and related demand on infrastructure and water sources; nuisance-level odor and lighting; parking and transportation safety at high traffic operations; and, general criminal issues such as OUI, theft or burglary.

Yet the committee decided that its amendment to LD 1719 would not include any direct provision of tax revenues to municipalities, nor would it allow for local impact fees, nor would it afford a half-share of state licensing application fees as provided in the original Act. This public policy seems to undercut the very premise of the Legislature's efforts, which have been to reform the law in a way that ensures a highly regulated yet robust legal market for non-medical marijuana that eventually eliminates the existing, and now flourishing, illicit market. All along, a key component of this initiative has been a two-tier regulatory approach, with the state and municipalities working in tandem.

This makes Maine the only legalizing state which is not allowing for any new local revenues, aside from ordinary municipal licensing fees that are strictly limited by existing statute. How the state expects municipalities to act as partners in regulating an industry filled with uncertainties without the proceeds to offset local costs is anyone's guess.

For now, it's all of the home rule with none of the revenue. Following legislative approval of the department's draft rules, state licenses are expected to be issued. While no one has a crystal ball, most stakeholders expect the state licensing program governing the four types of non-medical establishments to go online sometime in 2019.

### Medical act overhaul

As municipal officials throughout the state have learned, the medical act, MUMA, established a significant ambiguity regarding local authority to regulate medical marijuana caregivers. The ambiguity results from the law's clear allowance for municipal regulation of dispensaries, but silence with respect to local regulation of caregiver's cultivation and distribution operations.

Originally, caregivers used a home-based or house call delivery model. For years, it seemed understood that the highly regulated eight statewide dispensaries were the only entities authorized to distribute medical marijuana in a retail store setting. Today, caregivers are increasingly taking advantage of a "rotating patient" loophole and silence in MUMA regarding caregiver retail operations to attempt to open lo-

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

- Wastewater Process Engineering
- Treatment Facility Upgrades
- Sewer Infrastructure Design
- Stormwater Management
- Operations Assistance & Training
- Municipal & Civil Engineering

P.O. Box 679  
290 Main Street  
Winterport, Maine 04496

Telephone: (207) 223-2232  
Fax: (207) 223-5448

## Discover what know-how can do for local governments.

By maintaining strong relationships and delivering a high level of personalized service and expertise, we provide the know-how it takes to meet the ever-changing requirements of the municipal environment.

**Barbara Raths, Senior Government Banking Officer, SVP**  
350 Fore Street, Portland, ME  
207-828-3131 • barbara.raths@peoples.com

  
*What know-how can do®*

©2017 People's United Bank, N.A. | Member FDIC | Equal Housing Lender

cal retail storefronts. Caregiver stores are now reported to be running in dozens of Maine towns and cities, with minimal state oversight.

Because the act did not address local regulation of caregivers, municipal attorneys – and, certainly, caregivers’ attorneys – have arrived at different opinions on how to interpret the silence. Does silence mean home rule authority has not been restricted and local governments may address issues with caregivers in a manner similar to how they regulate other businesses? Or, does the silence indicate that the explicit provision of local regulatory authority over dispensaries is the only home rule authorized by the Legislature?

### Dual medical bills enacted

To help answer this question, on June 26, the last day of session before this edition went to print, the Legislature passed LD 238, An Act To Amend the Maine Medical Use of Marijuana Act, and LD 1539, An Act To Amend Maine’s Medical Marijuana Law. Although the titles are similar, LD 238 makes a few small changes to the existing MUMA, while LD 1539 significantly reworks the program.

*LD 238.* The Legislature’s Health and Human Services Committee intended for LD 238 to serve as an emergency stop-gap measure until LD 1539 takes effect. The language legalizes accredited third-party testing of medical marijuana, authorizes the manufacture of medical marijuana products using non-hazardous extraction and concentration processes, and requires processors who utilize hazardous substances to be certified as safe by a state-licensed professional engineer.

Importantly, the proposal also recognizes comprehensive home rule authority to fully regulate registered medical marijuana caregivers, dispensaries, and testing and manufacturing facilities, with a key limitation: municipalities may not prohibit registered primary caregivers from operating within the municipality, nor may they limit the number of registered primary caregivers.

These caveats reflect the balance that was necessary to gain broad legislative support for clearly recognizing the local authority to regulate all commercial medical marijuana operations. Both the House and Senate enacted

LD 238 as an emergency measure with minimal debate.

It should also be noted that this bill only recognizes local regulatory authority over commercial caregivers. The question of whether or not municipalities may regulate caregiver-patient relationships in more private family or household settings may need to be answered by a future Legislature or court. Because communities have been chiefly concerned with commercial caregivers, MMA’s advocacy efforts prioritized addressing those operations first.

*LD 1539.* For the commercial caregivers, this bill is the big kahuna. It acquiesces to many of the business activities that have been working in gray areas of the law and may have been struck down had they been challenged in court. The product of months of committee effort and vigorous end-of-session lobbying, as amended the legislation would make the changes brought about by LD 238 and then some.

As enacted, doctors will be authorized to certify for treatment patients who have a medical condition the physician thinks marijuana might help. Patients will be able to possess eight pounds of the plant instead of just 2.5 ounces under the previous law, and they will no longer need to be serviced by only one caregiver.

Limitations on the number of patients a registered caregiver (i.e., those serving more than two household or family members) may serve, or employees a registered caregiver may hire are gone, and registered caregivers will be authorized by virtue of their state registration certificate to operate a retail store. Instead of growing a maximum of six plants per patient, registered caregivers will be allowed to grow a maximum of 30 mature marijuana plants (plus additional immature seedling-type plants). The quid for this quo is expanded oversight by state and local authorities.

Dispensaries back LD 1539 as it authorizes six new dispensaries, in addition to the existing eight, until 2021, when the cap on the number of dispensaries will be lifted altogether. The bill also removes the requirement that dispensaries operate as non-profits. A topic of much discussion in the committee’s final work sessions on the bill was whether or not municipalities

would be allowed to prohibit caregiver retail stores, just as they may for dispensaries and non-medical marijuana enterprises. MMA lost the first round of that battle, with the committee deciding to apply to stores the same terms as to caregivers in general; towns and cities could regulate but not prohibit caregiver operations. When the bill reached the Senate, however, Sen. Roger Katz of Kennebec County, the co-chair of the Marijuana Legalization Implementation Committee, insisted on an amendment requiring the same opt-in rule that applies to non-medical retail to apply to medical retail outposts as well.

The result is that the version of LD 1539 recognizes home rule regulatory authority over all medical marijuana businesses, makes invalid local prohibitions or number limits on non-retail medical caregiver operations, and in turn, moving forward, disallows any retail operations that have not received municipal authorization. Stores existing on the effective date of the law will be grandfathered to the extent they are operating with requisite municipal approvals.

### Veto possible?

Alternatively, the Governor may veto these two medical marijuana bills. Should a veto be issued, the Legislature will consider overriding that decision when it reconvenes its second special session the week of July 9. The August-September edition of this publication will update readers on whether or not LDs 238 and 1539 went into law, and the Marijuana Resources section of MMA’s website will be updated as soon as any vetoes are sustained or overridden.

For more information on these legislative twists and turns, municipal officials are welcome to contact Garrett Corbin in MMA’s State & Federal Relations Department via email at [gcorbin@memun.org](mailto:gcorbin@memun.org), or an attorney in the Legal Services Department at [legal@memun.org](mailto:legal@memun.org) with questions regarding ordinances, how to handle existing operations, and applications for new businesses. The Legal Services Department has also recently published its Adult Use Marijuana Information Packet, now available online at <https://memun.org/Member-Center/Info-Packets-Guides/Adult-Use-Marijuana>. ■

# NEW LAWS

## 128th Legislature – Second Session

By MMA's State & Federal Relations staff

**Effective dates.** Emergency legislation became effective on the date it was signed by the Governor unless otherwise noted. If the new law was an emergency measure, it is so-noted before the Public Law citation. Non-emergency legislation becomes effective 90 days after adjournment of the legislative session in which it was enacted. The effective date of non-emergency legislation enacted in the Legislature's second regular session will be August 1, 2018. The effective date of non-emergency legislation enacted in the second special session will be described in the August/September edition of Maine Town & City.

**Mandate preamble.** Legislation enacted with a "mandate preamble" contains the following language: "*This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two-thirds of all of the members elected to each House have determined it necessary to enact this measure.*" If the new law was enacted with a mandate preamble, it is so-noted along with the Public Law citation.

### Agriculture, Conservation & Forestry

LD 858 – An Act To Strengthen the Law Regarding Dangerous Dogs and Nuisance Dogs. (Sponsored by Rep. Nadeau of Winslow) **(Mandate) PL 2017, c. 404**

Enacted as a state mandate, this Act makes several changes to the animal welfare laws pertaining to court designated dangerous and nuisance dogs. The Act: (1) amends the definition of a "dangerous dog" and further defines dangerous behavior; (2) adds a new designation and definition of "nuisance dog"; (3) provides a new licensing fee for a dangerous dog of \$100, with \$98 deposited into the municipality's animal welfare fund and a \$30 fee for a nuisance dog license with \$28 deposited into the local animal welfare fund; (4) requires municipalities to annually report the number, animal involved and the final disposition of all animal control complaints received during the prior year; (5) directs the Department of Agriculture, Conservation and Forestry to develop and implement a dog licensing database within one year of the effective date of this legislation and provide access to municipalities at no cost; (6) prohibits a person from training or encouraging a dog to be aggressive toward or attack a person or domesticated animal unless the training program is recognized by the Department of Public Safety, Bureau of State Police; (7) prohibits transferring ownership of a dangerous dog without the permission of the court, unless the transfer is to an animal control officer or an animal shelter that has a contract with a community to euthanize the dog for the municipality; (8) requires an owner to notify a municipality of the death or transfer of ownership of a dangerous or nuisance dog, and of the owner's change of residence; (9) provides the court with a number of expanded actions against the owner of a dangerous or nuisance dog including an increase in the maximum fine of up to \$5,000, which is paid directly to the municipality's animal welfare fund; (10) further defines the protocol for the humane detention of a dangerous or nuisance dog and shifts the cost of the detention to the owner; and (11) establishes as a Class D crime the failure to comply with a court order, or any of the new

registration requirements in this Act.

LD 1773 – Resolve, Directing the Bureau of Parks and Lands To Transfer Land in the Town of Pittston. (Sponsored by Rep. Hanley of Pittston) **Resolves 2017, c. 51**

This Resolve directs the Director of the Bureau of Parks and Lands within the Department of Agriculture, Conservation and Forestry to transfer a portion of a parcel of land on Arnold Road in the Town of Pittston to the First Congregational Church of Pittston.

### Appropriations & Financial Affairs

LD 247 – An Act To Amend the Retirement Laws Pertaining to Participating Local Districts. (Sponsored by Rep. Madigan of Rumford) **Emergency Enacted; PL 2017, c. 392 (4/18/18)**

This Act clarifies that the Board of Trustees of the Maine Public Employees Retirement System has rule-making authority to implement changes to the Participating Local District (PLD) Consolidated Retirement Plan and specifies that plan provisions pertaining to contribution rates, earnable compensation, service credit for unused sick or vacation leave, cost-of-living adjustments, early retirement reduction, and withdrawal liability payments, adopted by rule, apply to employers and members of the PLD. The Act also provides guidance for the adoption of rules to better implement the practice of retiring and returning to work.

LD 1510 – An Act To Authorize a General Fund Bond Issue To Fund Wastewater Infrastructure Projects. (Sponsored by Rep. Fredette of Newport) **PL 2017, c. 425**

This Act sends out to the voters a proposed \$30 million bond issue designed to improve water quality, support the planning and construction of wastewater treatment facilities and assist residents whose homes are served by substandard or malfunctioning wastewater treatment systems. \$2 million of the bond issue is dedicated to the Small Community Grant Program, administered by the Department of Environmental Protection, that can provide funds for the municipally-supervised repair of malfunctioning wastewater systems, \$350,000 of the issue is dedicated to the Overboard Discharge program which is similarly designed with respect to the malfunctioning residential wastewater systems in coastal watersheds, and \$27.65 million of the issue is dedicated to wastewater treatment facility planning and construction grants.

### Criminal Justice & Public Safety

LD 1735 – An Act To Authorize Regional Medical Control Committees To Have Access to Maine Emergency Medical Services Data for Purposes of Quality Improvement. (Sponsored by Sen. Thibodeau of Waldo County) **Emergency Enacted; PL 2017, c. 373 (4/10/18)**

This Act specifies that a regional medical control committee established to carry out a plan of quality improvement approved by the Department of Public Safety, Emergency Medical Services Board (Board) may have access to personally identifying data collected and retained by Maine EMS provided the release of the data is approved by the Board and its director, and the Medical Direction and Practices Board. The Act also clarifies Board responsibility to adopt the rules to ensure collected confidential information is accessible to the entity submitting the data and is in compliance with federal and state laws.

LD 1813 – An Act To Protect Children under 14 Years of Age from Being Photographed by Certain Persons. (Spon-

sored by Rep. Pouliot of Augusta) **PL 2017, c. 354**

This Act creates a definition of “indirect contact” under the sexual assault statutes that prohibits a person convicted of a sexual assault against or sexual exploitation of another person under 14 years of age from photographing another person under 14 years of age, provided the person has been notified, in writing or otherwise, not to engage in this conduct. Notice must be provided by either a law enforcement, corrections or judicial officer and the prohibition expires one year after the person receives notice. The definition of “photographing” means making, capturing, generating or saving a print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material.

**LD 1838 – An Act To Include in the Crime of Harassment by Telephone or by Electronic Communication Device the Distribution of Certain Photographic Images and Videos.** (Sponsored by Sen. Carpenter of Aroostook County) **PL 2017, c. 397**

This Act establishes new variants of the crime of harassment by telephone or electronic communication device. The Act makes it a Class D crime to use a telephone or electronic communication device to send an image or video of a sexual act or of the actor’s or another person’s genitals with the intent of causing affront or alarm or for the purpose of arousing or gratifying sexual desire if the person called or contacted is: (1) under 14 years of age; (2) 14 or 15 years of age when the actor is at least 5 years older; or (3) suffers from a mental disability that is reasonably apparent or known to the actor. The Act also makes it a Class E crime to use a telephone or electronic communication device to send an image or video of a sexual act or the actor’s or another person’s genitals without the consent of the person called or contacted after the person called or contacted has notified the actor, in writing or otherwise, that the person does not consent to receiving such images or videos.

## Education & Cultural Affairs

**LD 51 – An Act To Amend the Process for a Single Municipality To Withdraw from a Regional School Unit.** (Sponsored by Rep. Turner of Burlington) **PL 2017, c. 385**

This Act amends the procedures allowing a single municipality to withdraw from a Regional School Unit (RSU) by directing the commissioner of the Department of Education to set the date for the withdrawal referendum no later than Nov. 30 of the year prior to the intended July 1 effective date. The Act also adds requirements to the withdrawal agreement drafted by the community seeking to leave the RSU to include a plan for providing child nutrition services and an anticipated school budget for the first year of operation.

**LD 1843 – An Act To Amend Career and Technical Education Statutes.** (Sponsored by Sen. Langley of Hancock County) **PL 2017, c. 420**

This Act amends the calculation of state subsidy for career and technical education programs from an expenditure-driven model to a cost model recognizing expenses for direct instruction, central administration, supplies and services, operation of facilities, and student and administrative support. The Act also requires the state subsidy issued directly to a career and technical education center be transferred to the school unit operating an approved satellite program to support the cost of operating the program.

**LD 1858 – An Act To Include Security Installations and Upgrades in Maine’s School Revolving Renovation Fund.** (Sponsored by Sen. Millett of Cumberland County) **PL 2017, c. 389**

This Act amends the law governing the School Revolving Renovation Fund to allow Priority 1 status loans to be used to

fund school facility security-related installations and improvements.

## Energy, Utilities & Technology

**LD 1472 – An Act To Lower the Costs of Broadband Service by Coordinating the Installation of Broadband Infrastructure.** (Sponsored by Rep. McLean of Gorham) **PL 2017, c. 344**

This Act requires applicants for permits for underground facilities in excess of 500 feet in length to notify the ConnectME Authority within five business days of submitting the application. The notice must describe the location of the project, and the Authority must provide notice of the proposed installation to all parties potentially interested in installing broadband conduit while the project is underway.

**LD 1798 – Resolve, Regarding Legislative Review of Portions of Chapter 101: ConnectME Authority, a Major Substantive Rule of the ConnectME Authority.** (Reported by Rep. Berry of Bowdoinham for the ConnectME Authority) **Emergency Passed; Resolves 2017, c. 44 (4/08/18)**

This Resolve provides the legislative authorization necessary for the approval of the ConnectME Authority major substantive rulemaking to revise Chapter 101 of the Authority’s operational rules. The rulemaking is pursuant to statutory changes to Title 35-A, M.R.S., Chapter 93, enacted as LD 1063 during the 127th Legislature. That bill directed that the Authority’s rule ensure broadband grants are equitably distributed throughout the unserved and underserved areas of the State and that the grants encourage collaboration between multiple communities. Below is a summary of nine key changes made by the Authority’s rulemaking, followed by additional amendments imposed by the Legislature as a condition of its approval of the rule.

The rule approved pursuant to this resolve includes the following changes:

1. Expands the Authority’s membership from 5 to 7 while abolishing its Advisory Council;
2. Reorients the Authority’s responsibilities from monitoring and assessment towards grant funding administration;
3. Limits planning grant applicants to individual municipalities and collectives of municipalities, counties, and regional government entities;
4. Limits infrastructure grant applicants to communications service providers, and other entities determined by the Authority to be capable of providing the service;
5. Requires municipal applicants for planning grants to adhere to 12 requirements that include in-kind contributions from the municipality;
6. Requires the Authority to give preference to investments that provide the greatest relative improvement to existing broadband service in an unserved or underserved area and to evaluate planning grant applications according to four scoring categories: community support, project focus, project preparation, and financial commitment;
7. Requires that plans funded through grants include one or more potential network designs, cost estimates, operating models and potential business models based on input from broadband providers and any other parties that submit a design solution in the course of plan development;
8. Prohibits matching funds for broadband planning grants from consisting of in-kind contributions from the municipality or a party with a financial interest in a broadband infrastructure project that would be constructed pursuant to a planning grant; and
9. Requires plans funded through grants to be completed within one year (unless a waiver is granted) and allows the Authority to recapture funds awarded to plans that are not completed.

The Legislature's Resolve further requires the ConnectME Authority to make several technical amendments to its proposed rule prior to final adoption. The Legislature's amendments clarify some of the definitions in the rule, including the term "broadband service provider" (requiring them to be an entity which must file Form 477 with the Federal Communications Commission), establish guidelines for the receipt and dissemination of service providers' confidential proprietary information, and require project completion to be specified in a report within one year of receiving funding or within 180 days of receiving all necessary permits, licenses or governmental approvals, whichever is later.

**LD 1814 – An Act To Amend the Charter of the Lisbon Water Department.** (Sponsored by Sen. Mason of Androscoggin County) **P & SL 2017, c. 13**

This Act aligns the terms of office for the commissioners of the Lisbon Water Department with those of the members of Lisbon Town Council.

## **Environment & Natural Resources**

**LD 399 – An Act Regarding Municipal Satellite Wastewater Collection Systems.** (Sponsored by Rep. Tucker of Brunswick) **PL 2017, c. 353**

This Act authorizes state regulation of "satellite" wastewater collection systems that directly or indirectly convey wastewater to another publicly owned sewerage treatment works. Specifically, the Act requires the owner of a municipal satellite collection system to register with the Department of Environmental Protection using a form issued by the department and provide: (1) contact information for the owner and operator of the system; (2) information on the publicly owned treatment systems to which the satellite system discharges; (3) information on the geographic areas served by the system; (4) a basic map or schematic diagram of the system; and (5) system specifications, including but not limited to, the number of miles of pipe in the system, number and locations of pump stations within the system, and the number of customers served by the system. Additionally, the Act creates a duty to orally report to the department any unauthorized discharge from the system within 24 hours of the owner or operator of the system becoming aware of the discharge, and follow up with a written report within five days.

**LD 1298 – An Act To Update Maine's Water Quality Standards.** (Submitted by Rep. Harlow of Portland on behalf of MDEP) **PL 2017, c. 319**

This Act updates Maine's water quality standards to align state statutes with federal Clean Water Act requirements when pesticides are used to control invasive plants and diminish mosquito-borne diseases. The Act further updates Maine's water quality standards to be consistent with U.S. Environmental Protection Agency guidelines regarding recreational water quality criteria for bacteria, and the non-target species impact threshold the Department of Inland Fisheries and Wildlife must consider when the department or its agents apply aquatic pesticides or chemicals.

**LD 1534 – An Act To Reduce Food Waste in Maine.** (Sponsored by Rep. Hickman of Winthrop) **PL 2017, c. 369**

This Act directs the Department of Environmental Protection, as resources allow, to develop and maintain on its publicly accessible website a food recovery database including guidance documents, model policies, program resources and other educational material and technical data relevant to food recovery and food waste reduction efforts that may be implemented by counties, municipalities, educational institutions, businesses and members of the public.

**LD 1674 – Resolve, Regarding Legislative Review of Por-**

**tions of Chapter 502: Direct Watersheds of Lakes Most at Risk from New Development, Urban Impaired Streams, a Major Substantive Rule of the Department of Environmental Protection.** (Reported by Rep. Tucker of Brunswick for the Joint Standing Committee on Environment & Natural Resources) **Emergency Passed; Resolves 2017, c. 30 (2/18/18)**

This Resolve authorizes the final adoption of portions of the provisionally adopted Chapter 502: Direct Watersheds of Lakes Most at Risk from New Development, Urban Impaired Streams, a major substantive rule of the Department of Environmental Protection, including a review and revision of the water bodies listed as most at risk from new development and the list of urban impaired streams. Added to the Department's previous list are: The Basin in Auburn, Kennedy and Whitney Brook in Augusta, Sucker Brook in Bangor and Hampden, Thatcher Brook in Biddeford, Moose Pond in Bridgton, Granger Pond in Denmark, Georges Pond in Franklin, Dole Brook in Portland, Goodall Brook in Sanford, an unnamed tributary to the Androscoggin River in Topsham, Mud Pond in Turner, and Papoose Pond in Waterford. Removed from the department's previous list are: Brown Brook in Limerick, Mattanawcook Stream in Lincoln, Sherman Lake in Newcastle, and Mill Stream in Winthrop.

**LD 1847 – An Act To Amend the State's Electronic Waste Laws.** (Reported by Rep. Tucker of Brunswick for the Joint Standing Committee on Environment & Natural Resources) **PL 2017, c. 391**

This Act amends the state's electronic waste laws by: (1) changing the basis on which consumer electronic device manufacturers are billed for recycling costs; (2) changing the due date for consumer electronic device manufacturer annual registration from July 1 to Apr.1; and (3) making additional changes to align Maine's electronic waste program more closely with similar programs in other states.

## **Inland Fisheries & Wildlife**

**LD 768 – An Act To Simplify Nonresident Hunting and Fishing Licenses.** (Sponsored by Rep. Hilliard of Belgrade) **PL 2017, c. 427**

Effective Jan. 1, 2019, this Act eliminates all alien hunting and fishing licenses issued by the Department of Inland Fisheries and Wildlife and instead allows a person who is not a United States citizen to purchase a nonresident hunting and fishing license, provided eligibility criteria is met.

**LD 1790 – An Act Regarding Youth Hunting Day for Hunting Bear and Carrying a Handgun during the Regular Archery-only Season on Deer.** (Sponsored by Sen. Cushing of Penobscot County) **PL 2017, c. 357**

This Act corrects a cross-reference in the section of law regarding carrying a firearm during the regular archery-only season on deer to reflect that current law does not require a person eligible to carry a concealed handgun to obtain a permit to carry the handgun. The Act also allows the commissioner to establish a youth hunting day through rule.

## **Judiciary**

**LD 1716 – An Act To Protect Persons Who Provide Assistance to Law Enforcement Dogs, Search and Rescue Dogs and Service Dogs.** (Sponsored by Rep. Fay of Raymond) **PL 2017, c. 338**

This Act creates a new category of trained professional called a "security services dog handler." Such handlers, as well as emergency services medical personnel and law enforcement officers who voluntarily render first aid, emergency treatment or rescue assistance to a law enforcement, search and rescue, or service dog that is unconscious, ill, injured, or in need of rescue

assistance are exempt from liability for damages for an injury or death of the dog, unless the injury or death was caused recklessly or negligently.

**LD 1717 – An Act To Clarify the Authority of the Chief Medical Examiner To Properly Dispose of Abandoned Human Remains. (Sponsored by Rep. Moonen of Portland) PL 2017, c. 335**

This Act allows the state’s Chief Medical Examiner to dispose of identified but abandoned human remains. Remains are deemed abandoned if no one takes custody and control of them within 30 days after the autopsy and the examiner is unable to locate next of kin or a person or governmental unit legally responsible or willing to assume responsibility. The examiner is required to file a certificate of abandonment in the municipality where the remains were recovered, and authorized but not obligated to seek to recover costs from the estate or the municipality of residence of the deceased.

### **Labor, Commerce, Research & Economic Development**

**LD 1856 – An Act Regarding Permits for Burial of Cremated Remains. (Sponsored by Sen. Jackson of Aroostook County) Emergency Enacted; PL 2017, c. 363 (4/04/18)**

Current law requires a person in charge of a public burying ground or, if no such person exists, an official of the municipality where the public burying ground is located, to endorse and provide the date cremated remains were buried on the permit for burial of cremated remains and return the permit to the State Registrar of Vital Statistics or the clerk of the municipality in which the public burying ground is located. The existing law also requires the funeral director or authorized person to present a copy of each permit, after endorsement, to the State Registrar of Vital Statistics or the clerk of the municipality where the death occurred and to the clerk who issued the permit. This Act makes these required activities voluntary.

### **Marijuana Legalization Implementation**

**LD 1719 – An Act To Implement a Regulatory Structure for Adult Use Marijuana. (Sponsored by Rep. Pierce of Falmouth) Emergency Enacted; PL 2017, c. 409 (5/02/18)**

This Act provides the regulatory framework necessary to implement the citizen initiated law legalizing the non-medical use of marijuana for persons 21 years of age or older, which as proposed in the Act is referred to as the “adult use” of marijuana. The Act provides such persons with a right to privately consume and possess marijuana, subject to restrictions described below, and creates a privilege requiring separate licensure for the operation of four types of commercial marijuana establishments – cultivation, manufacturing, testing, and retail sales. Public consumption of marijuana is not authorized under the Act, even in a licensed commercial establishment.

*Local Control.* Of greatest significance to municipal officials, the Act expressly authorizes towns, cities, and plantations to “opt-in” to regulate some or all types of marijuana establishments within the municipality, including prohibiting or limiting the number of any type of establishment that may be approved or licensed to operate in the community. Under the terms of this Act, all municipalities which have not taken action to opt-in are effectively deemed to be opted-out, meaning establishments are not allowed in those municipalities.

As such, applicants may not seek local authorization for commercial establishments until the state has issued them a conditional license and the municipality has passed a new ordinance, amended an existing ordinance, or approved a warrant article designating certain or all types of marijuana establishments to be a permissible use in that municipality’s jurisdiction.

The Act also expressly authorizes communities to adopt

land use ordinances regulating the location of all marijuana establishments within the community and to impose licensing requirements.

There are only two limitations on local approval: (1) municipalities may not authorize applications for establishments to be located within 1,000 feet of the property line of a preexisting public or private school, or within 500 feet of such a school if the municipality has approved a 500 foot setback distance instead; and (2) approval may not be granted to an applicant who has not demonstrated ownership or lease of the property from which the proposed establishment will operate.

Municipalities and the Department of Administrative and Financial Services are required to notify each other, on a form provided by the department, within 14 days of a decision by either the municipality or the department to: (1) approve or deny the location of a marijuana establishment; (2) issue or renew a license; (3) withdraw the approval or suspend or revoke a license; (4) approve the relocation of a licensed premises; or (5) approve a transfer of ownership interest in a licensed establishment.

As provided in the Act, a municipality’s failure to act on a request for approval or a license to operate a marijuana establishment cannot be construed to satisfy the approval or licensing process. After 90 days, subject to an additional 90-day extension by the municipality, failure to act on a request for authorization or licensure in a municipality which has authorized the type of establishment is deemed a denial which may be appealed by the applicant to Superior Court.

*Personal Use.* The Act establishes quantitative limits for the personal use, consumption, cultivation and possession of marijuana by persons 21 years of age or older. This includes limiting possession to 2.5 ounces except for additional amounts produced by home cultivation, which must be located at the person’s place of residence or the location of cultivation.

Home cultivation is capped at a maximum of 3 mature plants, 12 immature plants, and unlimited seedlings, with the added requirements that these plants only be grown on land where the person is domiciled, or on land owned by the person, or on land owned by another person pursuant to a written agreement. Visual and security precautions are required, as are legible tags on each mature plant with the grower’s name, driver’s license or other ID number, and, if the plant is located on another’s land, the name of the owner of the parcel of land who has granted permission.

Local governments are authorized to regulate personal cultivation provided the regulations: (1) allow persons 21 and over who are domiciled on the property to cultivate the same number of plants (3 mature and 12 immature); (2) do not generally prohibit or require licensure for home cultivation for personal adult use; and (3) do not designate specific areas in the municipality for home cultivation.

(Note: Maine’s Medical Use of Marijuana Act authorizes medical marijuana patients to cultivate and possess greater quantities of medical marijuana.)

*Unorganized Territory.* In townships, the legislative body required to authorize establishments is the relevant county commissioners. In addition to approval by the town, plantation, or county commissioners, commercial activities in unorganized areas must also obtain the approval of the Land Use Planning Commission.

*Taxation.* The Act assesses an overall effective tax rate of twenty percent, splitting this rate roughly evenly between a ten percent sales tax on products sold at marijuana retail stores and the remainder accruing in the form of excise taxes on wholesale products sold by cultivation facilities. The excise taxes are \$335 per pound of marijuana flower or mature plants, \$94 per pound of trim, \$1.50 per immature plant or seedling, and \$0.30 per seed. Additionally, nursery facilities’ sales are subject to excise taxes when the sale is to another licensee (cultivator, manufac-



turer, or retail store) and a sales tax on sales directly to consumers.

Twelve percent of the total monthly tax revenue must be transferred to the Adult Use Marijuana Public Health and Safety Fund to be used to facilitate public health and safety awareness education programs and for enhanced training for local, county and state law enforcement officers.

Otherwise, there is no provision for the sharing of sales or excise taxes with municipalities. Local return on investment in authorizing municipalities is limited to licensing fees, which are subject to restrictions imposed by Title 30-A, section 3702.

*Nurseries.* Cultivation facilities are to be licensed by the state according to 5 different tiers, one of which is a Nursery Cultivation Facility. Such facilities would be authorized under their state cultivation license, without a separate state retail license, to sell immature marijuana plants, seedlings, marijuana seeds and agricultural or gardening supplies relating to the cultivation of marijuana to other licensed cultivation facilities as well as directly to consumers, unless otherwise regulated by the municipality.

The Act also:

*Regulation in the Workplace.* Allows employers to: (1) prohibit the use, consumption, possession, trade, display, transport, sale or cultivation of marijuana in the workplace or within the course and scope of employment; (2) adopt policies restricting the use of marijuana by employees; and (3) discipline employees who are under the influence of marijuana in the workplace or within the course and scope of employment according to the employer's policies.

*Operating, Testing, Labeling and Packaging Requirements.* Sets into place the many operating, testing, labeling and packaging requirements for the cultivation, manufacturing and testing facilities, as well as for retail stores.

*State Licenses.* Establishes several initial, renewal, transfer of ownership, and relocation of premises licensing criteria. If an application is approved, the state is required to issue a conditional license, which expires after one year and does not permit operation until it becomes active. An active license to operate a marijuana establishment is issued only if and when the applicant obtains municipal approval to operate within the municipality's boundaries.

*License Violation.* Implements the process for fining a licensee or suspending or revoking licenses for violations of state law.

*State Agency Authority.* Regulatory implementation and oversight of the law is assigned primarily to the Department of Administrative and Financial Services (DAFS), in consultation with the Department of Agriculture, Conservation and Forestry as well as the Department of Labor and the Department of Public Safety. As proposed in the Act, DAFS is authorized to:

- Adopt the major substantive rules establishing: (1) initial license and renewal application processes; (2) qualifications for licensure; (3) licensing fees; (4) appeals process for a denial of an application and the conduct of appeals and hearings; (5) security requirements for retail stores; (6) cultivation, manufacturing and testing regulations; (7) additional workplace and employment regulations; and (8) public safety and law enforcement regulations;

- Implement and administer a system to track adult use marijuana from immature plant to the point of retail sale, disposal or destruction;

- Develop programs or initiatives to facilitate the collection and analysis of data regarding the impacts and effects of the use of marijuana in the state, including youth and adult marijuana use; school suspension and discipline; poison center calls, emergency department visits and hospitalizations; operating under the influence arrests; motor vehicle accidents; and violent crimes associated with the use of marijuana;

- Develop and implement programs, initiatives and campaigns focused on educating the public on the health and safety

matters related to the use of marijuana;

- Develop and implement programs or initiatives providing enhanced training for criminal justice agencies in the requirement and enforcement of the law, including training law enforcement officers in the inspections, investigations, searches, seizures, forfeitures and personal use and home cultivation allowances; and

- Annually submit a report to the joint standing committee of the Legislature with jurisdiction over adult use marijuana. The report must include information on the number and types of applications, total amount of application and license fees received and the amount of sales tax revenue collected; volume and value of adult use marijuana sold by stores, and cultivation facilities; number of inspections conducted; number of license violations committed; public health and safety data; and recommendations for legislation to address issues associated with adult use marijuana. The first report must be submitted on Feb. 15, 2020.

*Marijuana Advisory Commission.* The Act also creates the 15 member Marijuana Advisory Commission. The commission is tasked with reviewing the laws and rules pertaining to the adult use and medical marijuana industries and recommending changes to the laws and rules that are necessary to preserve public health and safety. Beginning Jan. 15, 2020, and annually thereafter, the commission is required to submit a report containing findings and recommendations to the joint standing committee or committees of the Legislature having jurisdiction over medical marijuana and adult use marijuana matters.

## Marine Resources

LD 1519 – An Act To Define the Intertidal Zone for the Management and Enforcement of Shellfish Conservation Ordinances. (Sponsored by Rep. Devin of Newcastle) **PL 2017, c. 350**

This Act defines the intertidal zone regulated by municipal shellfish conservation programs as the area below the high-water mark and above subtidal lands.

## State & Local Government

LD 780 – An Act Authorizing the Deorganization of Cary Plantation. (Sponsored by Rep. Sherman of Hodgdon) **PL 2017, c. 403**

This Act authorizes the deorganization of Cary Plantation in Aroostook County, subject to approval at local referendum.

LD 1484 – An Act Authorizing the Deorganization of the Town of Atkinson. (Sponsored by Rep. Higgins of Dover-Foxcroft) **P & SL 2017, c. 14**

This Act authorizes the deorganization of the Town of Atkinson, subject to approval at local referendum.

LD 1588 – An Act To Maintain Access to Property on Discontinued Roads. (Sponsored by Rep. Hilliard of Belgrade) **PL 2017, c. 345**

This Act prospectively amends the existing procedure for discontinuing municipal roads to public maintenance and adds a new procedure for the process of discontinuing local roads where abutting properties are not otherwise accessible by another public road. With respect to the existing process, the Act makes two changes: (1) requires that the notice of the proposed discontinuance mailed to abutters include additional information regarding the potential municipal retention of a public easement following discontinuance, related maintenance obligations and access implications, and the abutters' right to negotiate private maintenance and access easements amongst themselves; and (2) requires the final order of discontinuance in municipalities where the legislative body is the town meeting to be adopted at the annual town meeting rather than at a spe-

cial town meeting. In addition to the notice and annual town meeting adoption procedures, the process for discontinuing a road with properties not otherwise accessible by another public road requires a one year delay in the post-notice process for the purpose of allowing abutters an opportunity to negotiate private maintenance agreements. If one or more of the abutters fail to file private access easements in the relevant registry of deeds in the year prior to discontinuance, the public easement must be retained. These changes are prospective, not retroactive, and effect road discontinuance procedures commencing on or after Oct. 1, 2018.

The Act also extends the residential property disclosure notice requirement in Title 33 section 173 regarding abandoned roads, discontinued roads, or public easements on or abutting the property to non-residential properties as well. Unlike the amendments mentioned above, the effective date of this property disclosure notice change is Aug. 1, 2018.

**LD 1673 – An Act To Authorize the Deorganization of Codyville Plantation.** (Sponsored by Rep. Turner of Burlington) **P & SL 2017, c. 11**

This bill provides for the deorganization of Codyville Plantation in Washington County, subject to approval at local referendum and allows Codyville Plantation to withdraw from the East Range II Community School District on June 30, 2019, if approved at referendum by the plantation’s voters.

**LD 1679 – An Act Regarding the Registry of Deeds in Oxford County.** (Sponsored by Rep. Winsor of Norway) **Emergency Enacted; PL 2017, c. 330 (3/07/18)**

This Act repeals the statute providing for the western registry district of Oxford County and eliminates its register of deeds, effective Dec. 31, 2018. It requires a single register of deeds to be elected for all of Oxford County at the next general election in November of 2018. The Act also specifies that the western registry will remain open until the repeal date, and that a “sub-registry” office will continue operations at the existing western registry district office in Fryeburg, remaining open during normal business hours and maintaining all records. The subregistry may be closed by the Oxford County Commissioners following at least two public hearings and providing for the preservation and electronic recording of all files and documents. Municipalities will be provided copies of maps and plot plans of their towns prior to the closure of the subregistry, and the county is prohibited from charging the county’s municipalities for the electronic recording work.

**LD 1840 – An Act To Revise the Municipal Consolidation Referendum Process.** (Sponsored by Sen. Brakey of Androscoggin County) **PL 2017, c. 398**

This Act amends the process by which municipalities may consolidate, requiring municipal officers to hold a referendum election to determine the willingness of the voters to form a joint charter commission in the event a municipality receives a petition proposing to form such a commission for the purpose of consolidating with one or more municipalities. The referendum must be held at least 90 days after the petition is filed to allow for election preparation. The referendum question must also inform the voters that a consolidation agreement prepared by the commission would not be final unless approved by the voters. If the referendum question is approved by a majority of voters in each municipality, the commission must be formed. The Act also doubles the length of time that a municipality is barred from becoming party to a consolidation agreement, now requiring 6 years instead of the 3 years in previous law, after the date a consolidation agreement is rejected. An exception in the law remains whereby a majority of the municipal officers in each municipality subject to the rejected consolidation agreement vote are allowed to form a joint charter commission within the

6-year timeframe. Finally, the Act clarifies that the number of signatures required for a citizen initiated petition to obtain an exception to the waiting period is now 30% of votes cast in the last gubernatorial election, rather than simply 30% of voters as provided in previous law.

**LD 1877 – An Act to Expand and Clarify the Areas Subject to Municipal Residency Restrictions for Sex Offenders.** (Sponsored by Rep. Martin of Sinclair) **PL 2017, c. 393**

This Act clarifies existing law allowing a municipality to prohibit a sex offender from residing within 750 feet of municipally owned or state owned property that is leased to a nonprofit organization for use as a park, athletic field or recreational facility open to the public where children are the primary users. The clarification authorizes 750-foot setbacks from municipally owned or state owned property which is not leased, while also continuing to limit the types of property to parks, athletic fields or recreational facilities open to the public where children are the primary users.

## **Taxation**

**LD 1479 – An Act To Modernize and Improve Maine’s Property Tax System.** (Sponsored by Rep. Stanley of Medway) **(Mandate) PL 2017, c. 367**

Enacted as a state mandate, this Act amends the process for assessing industrial properties by: (1) clarifying an assessor’s authority to request a “true and perfect” list and other information in a combined single notice to a taxpayer; and (2) revising existing confidentiality restrictions to allow assessors to share information and consult with other municipal officials, attorneys, consultants and experts whose input is necessary to properly assess more complex properties. The Act also amends the statutes dictating membership on the State Board of Property Tax Review by providing that when a term held by a public member expires or a vacancy occurs, that member’s seat must be filled by a person with expertise in taxation, finance or property valuation matters. The membership qualifications are also amended to allow current assessors, as well as retired assessors, to serve on the board. Under the terms of the amended law, mediation between the assessor and the taxpayer is mandated to take place after filing an appeal with the board, but before the hearing is scheduled, unless otherwise excused by the board chair. Finally, the Act creates a task force to examine the State Board of Property Tax Review and recommend changes to improve the appeal process. The task force must submit a report with its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over taxation matters, which may report out legislation to the First Regular Session of the 129<sup>th</sup> Legislature.

**LD 1862 – An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2018-19.** (Sponsored by Rep. Tipping of Orono) **Emergency Enacted; PL 2017, c. 424 (6/27/18)**

This Act establishes the “municipal cost components” for state and county services provided to the unorganized territory (UT). The municipal cost components form the basis of the property tax for the UT. After computing all the appropriations, identifying tax increment financing payments, and subtracting the general revenue and educational revenue deductions, the total UT tax assessment for FY 2019 is established at \$25.9 million (not counting overlay or county taxes), representing a 2.86% increase over the assessment for FY 2018.

## **Transportation**

**LD 209 – An Act To Amend the Laws Governing Temporary Sign Usage.** (Sponsored by Rep. Parry of Arundel) **PL 2017, c. 321**

This Act makes two changes to the current state law on roadside sign placement, by allowing signs to be installed in the right of way for 12 weeks every calendar year, instead of 6 weeks, and providing that signs include the initial date of installation, rather than the intended duration of the installation, as was previously required.

**LD 1685 – An Act To Create the Barbara Bush Children’s Hospital Registration Plate.** (Sponsored by Sen. Collins of York County) **PL 2017, c. 400**

This Act creates a new specialty registration plate to generate funds to support The Barbara Bush Children’s Hospital.

**LD 1692 – An Act To Amend the Motor Vehicle Laws.** (Sponsored by Rep. McLean of Gorham) **PL 2017, c. 327**

This Act increases the maximum registered weight of a vehicle eligible for specialty plates from 10,000 to 26,000 pounds and repeals the requirement that specialty plates authorized after Jan. 1, 2007 be retired after 10 years, regardless of the number of active plates.

**LD 1724 – Resolve, To Establish the Commission on Autonomous Vehicles and To Allow the Testing, Demonstration and Deployment of Automated Driving Systems.** (Sponsored by Rep. Sanborn of Portland) **Resolves 2017, c. 46**

As finally passed, this Resolve establishes an 11-member Commission on Autonomous Vehicles to develop a process for testing an automated driving system on public ways. The members of the commission include representatives from seven state departments and agencies, including transportation, public safety, and health and human services; the Maine Turnpike Authority; a representative with expertise in autonomous vehicle technologies; a representative of a nonprofit transit provider; and a representative of the motor carrier industry. By Jan. 15, 2020, the Commissioner of Transportation must submit an initial written report on the progress of the commission and by Jan. 15, 2022, submit a final written report that includes findings and recommendations, including suggested legislation for presentation to the joint standing committee of the Legislature having jurisdiction over transportation matters. Under the terms of the Resolve, the Transportation Committee is authorized to submit a bill to the Second Regular Session of the 129<sup>th</sup> Legislature relating to the subject matter addressed in the initial report and to

the Second Regular Session of the 130<sup>th</sup> Legislature relating to the subject matter associated with the final report.

**LD 1727 – Resolve, To Designate a Bridge in Surry the Old Surry Schoolhouse Bridge.** (Sponsored by Sen. Langley of Hancock County) **Resolves 2017, c. 31**

This Resolve designates Bridge 5977 in the Town of Surry the Old Surry Schoolhouse Bridge.

**LD 1818 – Resolve, To Designate a Bridge in Gorham the Corporal Joshua P. Barron Memorial Bridge.** (Sponsored by Rep. Sheats of Auburn) **Resolves 2017, c. 40**

This Resolve designates Bridge 6443 in the Town of Gorham the Corporal Joshua P. Barron Memorial Bridge.

**LD 1914 – Resolve, To Name the Bridge over the Kennebec River in the Town of Norridgewock the Corporal Eugene Cole Memorial Bridge.** (Sponsored by Rep. Farrin of Norridgewock) **Emergency Passed; Resolves 2017, c. 59 (6/29/18)**

This Resolve directs the Department of Transportation to designate Bridge 2187 on Route 201A, which crosses the Kennebec River in the Town of Norridgewock, the Corporal Eugene Cole Memorial Bridge.

### Veterans & Legal Affairs

**LD 1738 – An Act To Permit the Sale and Consumption of Alcohol in an Area That Is Not Contiguous to Licensed Premises.** (Sponsored by Sen. Deschambault of York County) **PL 2017, c. 337**

This Act authorizes the state Bureau of Alcoholic Beverages and Lottery Operations to approve consumption of alcohol on “noncontiguous” real estate near, but not directly connected to, established businesses that have been licensed for the sale of liquor for consumption on premises. Conditions of state approval include requirements that the noncontiguous real estate is owned by the municipality in which the establishment is licensed, and that the licensee has obtained municipal approval for the exercise of this license privilege. Only employees of the licensed establishment are authorized to transport liquor between the main premises and the nearby premises, and liquor service is limited to the earlier of one hour after the end of food service, or 11 p.m. ■



**CES INC**  
Engineers • Environmental Scientists • Surveyors

**40 YEARS**  
of SENSIBLE SOLUTIONS

Working with communities across the state to serve their engineering, environmental and surveying needs.

ces-maine.com  
207.989.4824

Find us on  
  

# The end of ‘fair share:’ What lies after the Supreme Court ruling

*Public-sector employers must cease deducting union dues from ‘fair share’ employees. Looking farther ahead, expect unions to react in creative ways.*

By Matt Tarasevich, Attorney and Shareholder, Bernstein Shur

On June 27, 2018, the United States Supreme Court, as many had anticipated, held that requiring public-sector employees to pay compelled “fair share” fees was unconstitutional. The sharply divided 5-4 *Janus v. American Federation of State, County, and Municipal Employees, Council 31 (AFSCME)* decision takes effect immediately and places burdens on public employers to comply. The decision could have far reaching consequences for Maine public employers, employees and public-sector unions.

## Background

In our January 2018 edition, we summarized the history of *Janus* and its now-overturned predecessor, *Abood v. Detroit Board of Education*. Under the 1977 *Abood* decision, the Supreme Court held that unions could charge fees to non-union members covered by the union contract to help offset the costs of “collective bargaining, contract administration, and grievance adjustment,” as long as the union did not use the fees collected from non-union members for political or ideological activities.

Rather than settling the issue, the *Abood* decision was a source of contention for decades. In recent years, the challenge to the “fair share doctrine” centered on whether requiring the payment of fair share, or service fees, constitutes a violation of a non-member employee’s First Amendment rights under the United States Constitution. The argument is essentially that, because all public-sector union

activities are inherently political, compelling non-members to pay union “fair share” fees forces the employee to subsidize a union and/or political causes that he or she may not support.

Unions and their supporters argued that *Abood* should stand for several reasons, including the prevention of “free riders” (non-dues paying employees who benefited from but did not share the cost of the collective bargaining agreement); the need for labor peace and stability; and respect for the *stare decisis* doctrine – not overturning long-standing prior Supreme Court precedents unless there is a compelling reason to do so.

## The *Janus* decision

The majority in *Janus* not only held that the “fair share” doctrine was unconstitutional but, in surprisingly caustic tones, found that *Abood* was “poorly reasoned” and “wrongly decided.” The Court determined that everything that public unions do is ultimately and inherently political, and therefore compelling union fees and dues is a violation of First Amendment rights. The Court dispensed with the “free rider” argument by ruling that the union’s “right” to compelled fees does not trump First Amendment rights. In one telling passage, Justice Alito noted that, “Petitioner (Mark Janus) strenuously objects to this free-rider label. He argues that he is not a free rider on a bus headed for a destination that he wishes to reach but is more like a person shanghaied for an unwanted voyage.” The Court also suggested that unions should instead simply work harder to demonstrate their value to prospective members.

The Court was also unpersuaded that the compelled fees or dues were

necessary to maintain labor peace and harmony. The Court reasoned that if the goal of *Abood* was to achieve labor peace, that goal could be reached through less restrictive means than violating individuals’ First Amendment rights. The Court also noted that there was no evidence that states that do not have “right to work” laws (including Maine) suffer from a lack of labor peace.

The Court also determined that although *Abood* has been the law of the land for 41 years, *stare decisis* did not require its retention. The majority found that *Abood* was “poorly reasoned,” and that no deference should be given to a “wrongly decided” prior Supreme Court decision. The Court also noted that the “underpinnings” of *Abood* had been “eroded” over the past few years, and that its lack of clarity and unconstitutional nature supported overturning it.

Finally, and most importantly, the Court held that going forward, “neither an agency fee nor any other form of payment to a public-sector union may be deducted from an employee, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay.” (Emphasis added).

## What’s next?

The *Janus* decision has some real-time implications for many public employers, and as in any case of this magnitude, raises compliance questions. These issues include:

*Dues Deductions:* Compelled “fair share” fees are now unconstitutional. Accordingly, public employers should immediately cease deducting fees from any “fair share” employee.

*Fair Share Provisions:* Any “fair

---

**Matt Tarasevich** is the co-chair of Bernstein Shur’s Labor & Employment Group, which assists public- and private-sector clients with labor and personnel matters. He can be reached at: [mtarasevich@bernsteinshur.com](mailto:mtarasevich@bernsteinshur.com) or 207-228-7158.

share” provision and language in any public sector collective bargaining agreement (CBA) in Maine is now unconstitutional. Public employers should review the severability clause in their CBAs to determine if they have any obligations post-“fair share.”

**Notice to Employees:** While *Janus* does not require public employers to notify employees of the decision, employers might consider a carefully created written notice to employees – drafted by legal counsel – advising of the decision. Apart from such notice, we strongly advise public employers not to engage in any discussions about *Janus* with employees, other than to refer their questions or concerns to their union or to the Maine Labor Relations Board.

**Affirmative Authority to Deduct:** The Court stated, unequivocally, that employees must provide affirmative consent for any deduction. Public employers should double check to see if they have written consents (typically in the form of signed membership cards) from all dues-paying members.

**Opt-Out Provisions:** Some CBAs have provisions that allow employees

to opt out of dues payment at specified times. Other CBAs are silent on the issue. *Janus* may be construed as requiring an employee to explicitly opt in to choose to pay dues. This may become a hotly contested issue at the bargaining table when contracts renew.

**Increased Union Activity:** The Court suggested that public-sector unions will need to market themselves more aggressively and “win back” the membership. Public employers may there-

fore see unions campaign – through visits, mailings or other contacts with employees – to convince members and non-members alike of the value of the services they provide.

**Duty of Fair Representation:** Maine law requires unions to represent all employees in the unit, regardless of dues-paying status. This duty of representation includes bargaining at the table and the adjustment of grievances. Unions may seek to renegotiate CBAs to shift the cost of



www.vhb.com

Engineers | Scientists | Planners | Designers

500 Southborough Drive  
Suite 105B  
South Portland, ME 04106  
207.889.3150

**Serving Maine for more than 30 years**

VHB's roadway, structural, traffic, environmental, and land development professionals deliver solutions that help communities thrive.



## Maine lawyers working with Maine municipalities.



With over 60 years experience, it's no wonder that municipalities, counties and school districts across Maine depend on the knowledge of Jensen Baird.

We are your trusted source in providing solutions to a broad range of issues.

With prompt, practical and cost-effective guidance, our lawyers are regularly recognized as among

*The Best Lawyers in America.*

At Jensen Baird,  
our commitment is to you.



*Attorneys at Law*

Portland / Kennebunk • 207-775-7271 • 1-800-756-1166 • jbggh.com

their representation of non-dues paying employees. For example, some contracts in Maine contain grievance provisions in which non-paying unit employees may get representation from the union's attorney by paying an hourly fee. These provisions may become more common.

**Legislative Action:** Maine has an election this fall, including for a new Governor. Unions may seek legislative changes to the scope of the duty of representation. It is likely that bills will be introduced to reduce the effect on unions. Other states have already been on the march. For example, several states have passed laws requiring new public employees to attend a mandatory "union orientation" meeting, at which the "virtues" of union membership are provided.

**Unions vs. Associations:** Some units in smaller towns are comprised of fewer than 10 members, and were reorganized by a professional union. Many such employees are unaware that they can decertify their union with the

Maine Labor Relations Board and reorganize as a bargaining association – and therefore perhaps have the benefits of collective bargaining without the dues (if they chose not to collect them). Public employers should not assist in or promote this process, if it were to occur – but should be aware that it could happen.

**The impact of Janus**

It may be some time before we fully understand the impact of *Janus*. However, a few things are likely.

First, payments to public-sector unions will most certainly decrease. For example, after Michigan passed its "Right to Work" law prohibiting compelled union dues assessments,

over 100,000 union members stopped paying dues.

Second, union political contributions (of which over 90 percent flow to the Democratic Party) may be affected. Since 2008, an estimated \$229.2 million was spent on political contributions. The loss of significant dues income may impact those contributions.

Finally, it is certain that unions will not take this decision lightly. Public employers should prepare for creative reactions, and strategize accordingly.

We will continue to monitor the impact of *Janus* as these events play out, and will keep you advised of any important developments. ■

**Technology.**  
 Municipal Solutions  
 Hosted PBX Phones  
 Cloud Computing and Storage  
 WAN and LAN  
 Disaster Recovery  
 Managed Services  
 Municipal Broadband Options

**Tradition.**  
 The OTELCO family of companies; Mid Maine Communications, Pine Tree Telephone, Saco River Telephone, and OTT serviced Maine communities for more than a century. TODAY, we embrace our family lineage and OTELCO name..

**Together.**  
 Working WITH you to ensure that you stay connected with the community you serve and to realize your community broadband vision.

**OTELCO**  
 Technology. Tradition. Together.

otelco.com  
 877-643-6246

DRINKING WATER | WASTEWATER |  
 WATER RESOURCES | CIVIL ENGINEERING  
 & COMMUNITY DEVELOPMENT

Serving Maine Municipalities  
 for Over 70 Years

**WRIGHT-PIERCE**   
 Engineering a Better Environment

www.wright-pierce.com | 888.621.8156  
 Offices Throughout New England and Florida   




  
**ELLIS & MEADER**  
 ATTORNEYS AT LAW

**Legal Counsel To Maine Communities**  
 EXPERIENCED • EFFECTIVE • EFFICIENT

Prior to co-founding Ellis & Meader, Amanda was a Staff Attorney at Maine Municipal Association for five years. Amanda spent the first seven years of her career in private practice, where she advised municipalities, counties and utility districts on a broad range of issues including:

*General Legal Advice • Labor & Employment*  
*Ordinance Drafting & Review • Planning, Zoning & Enforcement*  
*Taxation • Real Estate*

Ph: 207-530-9026 Email: amanda@ellismeador.com Web: ellismeador.com  
 Address: 227 Water Street, Suite 222, Augusta, Maine 04330

# The Municipal RISK MANAGER

SUMMER 2018

A Publication of the Maine Municipal Association

## MMA Risk Management Services Announces New Director



*Michelle Pelletier*

Maine Municipal Association is pleased to announce the well-deserved appointment of Michelle Pelletier, current MMA Risk Management Services Underwriting Manager, to the position of Director of Risk Management Services. Michelle brings to the position a solid, proven background in underwriting, risk financing, reinsurance, coverage and risk analysis and member services. She has been instrumental in the development of numerous program enhancements for the Property & Casualty Pool, Workers' Compensation Fund and the Unemployment Compensation Fund. Michelle is dedicated to our programs, our membership and our continued partnerships. Michelle has earned the prestigious Chartered Property Casualty Underwriter (CPCU) designation, which is a professional designation held by just over 2% of all those employed in the insurance industry in the United States, and is widely considered the premier designation in the property and casualty insurance industry.

Michelle joined the Maine Municipal Association Risk Management Services staff in 1990 as an Underwriting Specialist and a Senior Underwriter. More recently, over the last ten (10) years she has been the Underwriting Manager. She is excited and pleased to be given this opportunity to lead the Risk Management Services department and programs as MMA looks to meet the evolving risk

management needs of our membership in the future. Please join us in congratulating Michelle on this appointment and we all look forward to working with her as she implements her vision of the Risk Management Services programs. Michelle looks forward to working with all of you as the new Director and welcomes your input and thanks you all for your partnership and support. 🏠

## Time out for Training at the 27th Annual Highway Congress



Risk Management Services Loss Control Department continued their support of the Annual Highway Congress held June 1st at the Skowhegan Fairgrounds. The "Time Out for Training" booth is a fixture at the Highway Congress and provides our loss control staff an opportunity to discuss various safety issue with many of our members and interact with vendors in a casual setting. This year's safety focus was centered on Salt & Sand Shed Safety Awareness.

We would like to thank all of the attendees that visited our booth. 🏠

## Money for Safety – Did you receive your grant?

If your entity is in need of money for safety equipment or safety based education we are here to help. The Maine Municipal Association Workers Compensation Fund offers their members two programs to assist with their safety efforts: The Ed MacDonald Safety Enhancement Grant and Scholarship Grant Programs. These programs offer financial incentives to members of the Workers Compensation Fund by supporting their purchase of safety equipment or safety services that will assist in reducing the frequency and/or severity of workplace injuries. The Grant Programs have assisted in the purchase of 1,182 sets of Bunker Gear for our Fire Departments, 341 Bulletproof Vests to protect our Police Officers and over 960 Ergonomic Devices to improve the quality of our municipal offices/worksites.

The Maine Municipal Association has been proudly awarding safety grants to Members of their Workers Compensation Fund since 1999. The Ed MacDonald Grant programs continue to support governmental entities in Maine and has bestowed over **\$ 4.4 Million** in grants and scholarships. We are happy to announce the award of **117 grants for a total of \$159,200 for the May 2018 grant period.**

Alboin	Cumberland County	Kennebec Sanitary Treatment District	Norridgewock	Somerset County
Androscoggin County	Cyr Plantation	Kennebec Water District	North Berwick	South Berwick
Anson	Eagle Lake Water & Sewer District	Kennebunk	Northport	South Portland
Athens	Easton	Kingfield	Norway	Starks
Auburn Water District	Ellsworth	Kittery	Old Orchard Beach	Strong
Augusta	Fairfield	Kittery Water District	Old Town	Vassalboro
Augusta School Department	Farmingdale	Lincoln Sanitary District	Orono	Waldo
Bangor Water District	Fort Kent	Littleton	Orono Veazie Water District	Waldo County
Belfast	Freedom	Lincoln Sagadahoc Multicounty Jail Authority	Orrington	Warren
Berwick Sewer District	Fryeburg	Livermore	Paris	Washington
Biddeford	Gorham	Lubec	Penobscot County	Waterville
Boothbay	Gray	Madison	Phillips	Weld
Bremen	Great Salt Bay Sanitary District	Mars Hill	Phippsburg	West Gardiner
Brewer	Hampden Water District	Medway	Pittsfield	Westbrook
Bridgton	Hancock County	Mexico	Poland	Whiting
Brownfield	Harmony	Mid Coast Solid Waste Corporation	Presque Isle	Wilton
Brownville	Harrison	Millinocket	Presque Isle Utilities District	Winslow
Brunswick	Holden	Monticello	Sabattus	Winthrop
Cape Elizabeth	Hope	Montville	Saint Francis	Wiscasset
Carrabassett Valley	Houlton	New Gloucester	Sanford	Woodland
Castine	Howland	New Sharon	Sanford Water District	Yarmouth Water District
Cumberland	Jackman	Newburgh	Sidney	York County

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



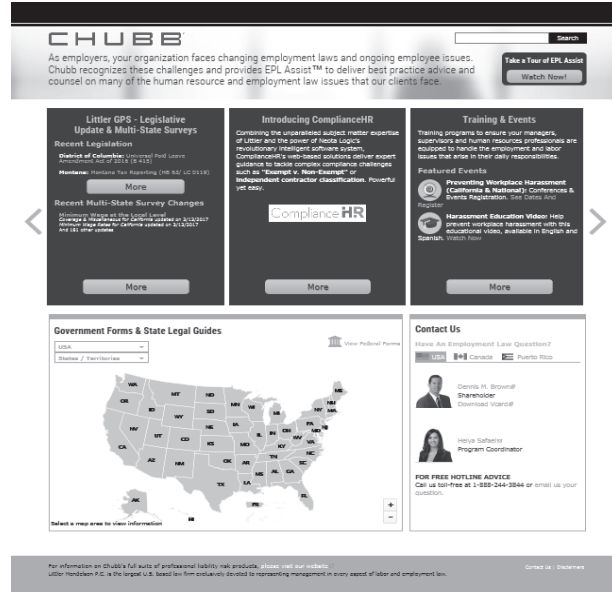


Littler EPL Assist™



## The Free Tool That Answers Your Employment Questions

Employers today face a dizzying array of employment laws, regulations and ongoing employment issues. Whether it involves employee discipline or termination, wage and hour, disability accommodation, or even the new frontier of social media, failure to comply with the ever-changing legal requirements can have a devastating impact on employee morale and the company's bottom line. MMA Risk Management Services recognizes the unique burdens faced by Municipalities and Governmental Entities in today's employment arena, and we are pleased to announce that we have partnered with the nation's foremost employment and labor law firm, Littler Mendelson (Littler).



Through EPL Assist™, MMA Property & Casualty Pool members have an unlimited ability to seek out expert advice and counsel as a benefit of the program. EPL Assist™ is a cutting edge risk management program providing members with a wide variety of legal content, forms and analysis, combined with the ability to interface directly with Littler lawyers dedicated to assisting you in navigating what has become an employment law minefield.

**Members are provided:**

- Free Hotline and online access to legal experts at (prior registration required)**
- Employment law updates, newsletters and related publications**
- A compendium of online employment law resources through a secure website, including unlimited access to such content as:**
  - ❖ Employment policies and practices
  - ❖ Human Resources forms library
  - ❖ Sample employee handbooks
  - ❖ State and national employment law summaries and reference materials
  - ❖ Free harassment training webinars for up to 10 supervisors or managers and complimentary registrations to Littler's nationwide breakfast briefing series
  - ❖ Complimentary access to Littler's webinars and podcasts

For further information regarding this program, please contact Marcus Ballou RMS Member Services at:

**1-800-590-5583 or Email [mballou@memun.org](mailto:mballou@memun.org)**

***Serving Maine Communities Is What We Do and All We Do***

## Thank you and Enjoy



Pat Kablitz

The staff of MMA Risk Management Services would like to send a personal message to Pat Kablitz to thank her for her 20 years of dedicated leadership and friendship. We wish Pat the happiest of retirements and we look forward to hearing about her new adventures. Thanks Pat! 🏠

## Thanks Ann



Ann Schneider

It was with warm wishes and with regret that MMA Risk Management Services announced the retirement of Loss Control Supervisor Ann Schneider on May 4. Ann was hired as a Loss Control Consultant in 1999, promoted to Senior Loss Control Consultant in 2001 and promoted to Loss Control Supervisor in 2011. Ann's members and RMS co-workers will miss her good humor, her depth of knowledge and especially her dedication to our members' safety and well-being. She was a helpful mentor to Loss Control Consultants Lance Lemieux, Dan Whittier and Zachary Collins and a valuable resource to Loss Control, RMS and our members. Ann appreciated eclectic vegetarian restaurants- even if the rest of Loss Control was not always quite as enthusiastic. We wish her all the best in her new adventures. 🏠

**MMA Risk Management Services is happy to welcome the newest members to:**

**Property and Casualty Pool**

Town of Arundel

Town of Sumner

The Hancock Fire Department

**Unemployment Compensation Fund**

Town of Prospect

Town of Union

We thank our dedicated members for their continued partnership.

## FREQUENTLY ASKED QUESTIONS:

**Question:**

**Is this event Town Sponsored?**

**Answer:**

Throughout Maine, special events and activities are commonly held. In the planning of these events, entities appropriate funding and dedicate a great amount of time and resources to ensure that the event is enjoyed by the attending public, but there often exists confusion over whose event it is. Is your municipality truly sponsoring the event or is another entity responsible for the event and the insurance?

For an event to be considered a function of the municipality, the following minimum criteria must be met:

1. The Board of Selectmen, Council, or a designated municipal administrator must appoint or confirm, or the citizens of the municipality must elect, the individuals responsible for planning, organizing, and staffing the activity.
2. The Board of Selectmen or Council must have ultimate authority and oversight over the activity. The Board or Council, or a municipal manager appointed by the Board or Council, or an elected municipal official must have jurisdiction over hiring, safety issues, and cash management policies and procedures.
3. All funds that are collected and disbursed for the activity must be accounted for in the municipality's annual audit and overseen by the municipal treasurer.

Please look for this new Frequently Asked Questions section of the Municipal Risk Manager each quarter. If you have a question you would like to ask please email Marcus Ballou at [mballou@memun.org](mailto:mballou@memun.org)

# Recycling market tumbles as China institutes 'Green Sword'

*Mixed paper especially is not as welcome in China, which is the dominant market for recycling material. Maine municipalities – and landfills – feel the effect.*

By Janine Pineo

**A**n import ban in China dubbed the “Green Sword” is hitting Maine municipalities in an odd place: recyclables.

Like any market, the one for recyclable materials waxes and wanes, going through periods of supply and demand. A bale of cardboard, for example, has a worth, which makes it a source of revenue. Cardboard, plastics, glass and mixed paper are among the “streams” for solid-waste recycling across Maine communities, which have numerous programs to keep residents recycling to slow the flow of trash to landfills.

But the global market changed drastically within the past year.

“We are waiting to see what China does next,” said Matt Grondin, communications director for ecomaine, a nonprofit governed by 20 municipalities and serving 74 across the state in 2018. “The markets have been really cyclical over decades,” he said, adding that this time the change in China’s policy is “decidedly bigger.”

That policy – first announced last summer to the World Trade Organization and implemented Jan. 1 – bans 24 kinds of imported solid waste and tightens the contamination standards for what it will allow. Because China has had the lion’s share of the market with most recyclables, the situation has left recyclers scrambling to find alternative buyers for the material piling up.

It also has changed the revenue part of the equation. “This time last year, we were still being paid” for a load of mixed paper, Grondin said.

Ecomaine, which has the largest recycling facility in the state, received



**A bale of cardboard is moved at the Newport Transfer Station.** (Photo courtesy of Maine Resource Recovery Association)

\$100 per ton for mixed paper. That particular waste stream is the largest one for the nonprofit, totaling about 60 percent of its recyclables last year (it’s closer to 50 percent so far this year). In the year since, the price has swung in the opposite direction with ecomaine having to pay around \$60 per ton to get rid of that same mixed paper.

## More to landfills

At the moment, solutions for Maine and the rest of the United States are limited. Markets in other countries are being sought, some of the glutted recycling streams are being cut out of recycling programs and landfills are being used to dump what was being recycled a year ago.

Pleasant River Solid Waste Disposal District in Washington County is feeling the crunch.

“We’ve had to close up all of our

glass, plastics, mixed paper,” said Tom Batson, the district’s site supervisor. “Too much in stock that we can’t get rid of. We still take cardboard and aluminum.”

The facility is located in Columbia Falls and funded by municipal taxes from six towns: Addison, Beals, Columbia, Columbia Falls, Jonesboro and Jonesport. Another five towns have contracts with the district and send recyclables there: Beddington, Deblois, Cherryfield, Milbridge and Steuben.

“My No. 1 concern is protecting my taxpayers,” Batson said. For Pleasant River, that means finding the best agreement to transport the recyclables in a situation that has rapidly worsened over the first half of the year. It ramped up “very quickly when we lost the plastic and mixed paper,” he said.

Batson negotiates with different entities for all types of solid waste that funnel through the facility. “They’ve

*Janine Pineo is a freelance writer from Hudson and regular contributor to Maine Town & City, [jepineo@gmail.com](mailto:jepineo@gmail.com).*

got to make a deal with me,” he said. Maine Resource Recovery Association and Casella Waste Systems are his usual channels to find the best arrangements, adding that in late June he was expecting Casella to move some of the plastics and cans for the district.

**Calculating contaminants**

Victor Horton, executive director of Maine Resource Recovery Association, said China decided that imported recyclables were too contaminated and set a 0.5 percent contamination level.

“We’re not built to handle that low a level,” he said.

How far would Maine need to go to meet a level that low?

Recyclers generally manage a five percent contamination level, according to ecomaine and MRRA. Contamination can mean a variety of conditions, with anything from the wrong type of paper in the mixed paper to oils or food contamination. Lowering the percentage of contamination is labor-intensive and requires more staff.

Ecomaine has not only hired more people to work on its sorting lines, it also has slowed production to catch



**Ecomaine sorts the different solid waste into multiple streams with a combination of staff and equipment.** (Photo courtesy of ecomaine)

and remove more contaminants.

“We can control the contamination,” Grondin said. “We all share the responsibility of getting the contamination out of it.” It starts with the consumers, he said, who oftentimes engage in wishful recycling and place

items in the recycling bin that end up contaminating the stream. But municipalities and haulers share in the final product, too.

Contaminated recyclables cost the processor, in this case China, because they change the quality of the final

Meet our Attorneys  
Dan S. Pittman



Dan Pittman is a member of our municipal finance team. He has acted as bond counsel for towns, cities, counties, sanitary districts and other governmental entities to help them find creative and effective ways to build and maintain public infrastructure, including roads, schools, water and sewer systems, municipal buildings and capital equipment. He has also advised tax-exempt educational and charitable institutions about how to partner with their local communities to issue tax-exempt bonds. He also advises tax-exempt bond issuers regarding their ongoing compliance responsibilities, and helps them navigate the complex tax rules surrounding arbitrage and rebate.

He is a member of the National Association of Bond Lawyers and is recognized as qualified bond counsel by “The Bond Buyer’s Municipal Marketplace”

To learn more, please contact Dan Pittman at 207-992-4342.



1-800-564-0111 | [eatonpeabody.com](http://eatonpeabody.com)  
Augusta | Bangor | Brunswick | Ellsworth | Portland

product. Grondin said that oils, cheese and grease, for example, affect the fiber in the paper and will “ruin the batch.”

China’s move is not entirely unprecedented. Five years ago, the country implemented the “Green Fence,” which rattled the global markets with its enforcement of its existing laws. Green Fence also stated China was seeking a 0.3 percent contamination standard, although it continued to allow a five percent contamination level on its imports.

Green Fence laid the groundwork for what would happen this year with the “Green Sword,” although the 0.3 percent threshold was raised to the 0.5 percent currently thwarting U.S. recyclers.

Hit hardest is the mixed paper stream, with China processing 55 percent of the world’s supply at the end of last year.

“Everyone has a lot of mixed,” Horton of MRRA said. “Since China shut the door, it left a lot more paper over here on the dock. There’s so much supply over here, there’s no possible way we could use it quick enough.”

MRRA has 160 member municipali-

ties and works with 60 to 70 recycling centers across Maine. Horton said the association is similar to an agent for the member towns and works much like a cooperative, seeking to get them the best options for their solid waste but also for purchasing items such

as baling wire and composting bins. “We try to take the worry out of their minds,” he said.

**Few U.S. facilities**

One of the huge hurdles for the United States is the lack of process-



*The Only Decisions We Make Are*  
**LOCAL DECISIONS.**

**Specializing in fixed-rate leasing programs for Maine municipalities**  
 Leasing is a great alternative to spending your precious capital. With a broad range of fixed-rate programs for new or used equipment, 100% financing for Maine municipalities and a streamlined application process, we’ll have you up and running in no time. That’s the power of local banking. That’s banking you can believe in.

**Contact Rick Proctor, Vice President Leasing, at (207) 222-1498.**



Gorham Savings Bank Leasing Group, LLC is an affiliate of Gorham Savings Bank.  
 Member FDIC  Equal Housing Lender

# Save The Date!

**Monday, October 22, 2018**

## Fall Workshop & Annual Meeting



Maine Resource Recovery Association  
**Hilton Garden ~ Auburn**  
**Monday, October 22, 2018**  
[mrra.net](http://mrra.net)

### EDUCATION ~ WORKSHOPS ~ NETWORKING



- Cooperative Marketing
- Recycling Education
- Technical Training
- Legislative Advocacy
- Composting Supplies



**Maine Resource Recovery Association works statewide to help towns & cities  
 IMPROVE RECYCLING AND SOLID WASTE MANAGEMENT**

ing facilities. “There are not enough people out there to take the stuff,” Horton said.

A Public Radio International report from Jan. 1 noted the lack of mills in this country and pointed out that building new ones that would reach the capacity needed to meet the demand in the United States would take several years.

Horton said there were a number of mills years ago, but a good many closed for a variety of reasons, while China surged to the forefront of processing recyclables.

Meanwhile, there are smaller processors in other countries that take some of the solid waste, including India, Indonesia and Vietnam, but they do not have the capacity to replace China in the short term.

Horton said that right now it costs more to ship the solid waste than what the actual solid waste is worth. “The freight is more than the value of the material,” he said, adding it is the first time in “quite a few years” that they’ve

had to pay to recycle.

If a municipality can’t recycle, then what was going to a facility is now being added to the household trash – also known as municipal solid waste – and destined for a landfill.

For the Machias Bay Area Transfer Station, the bag fee for trash increased from \$2 per bag to \$3 on July 1. The transfer station is used by Machias, Marshfield, Whitneyville, Townships 24, 29 and 30, and Day Block Town-

**PROFESSIONAL ENGINEERING FOR MAINE**

- PLANNING
- DESIGN
- CONSTRUCTION SERVICES
- OPERATIONS SUPPORT

**DIRIGO ENGINEERING**

FAIRFIELD, MAINE 207-453-2401

Water · Wastewater · Roads  
Stormwater · Development

**THOMAS**  
Graduate & Professional Studies

Thomas College part-time Master’s programs are designed to help you earn an advanced degree—on a schedule that works for you.

- Master of Business Administration
- Master of Science in Cybersecurity
- Master of Science in Criminology
- Master of Science in Education

[www.thomas.edu/gps](http://www.thomas.edu/gps)  
207.859.1102

Earn your Master’s in Cybersecurity in 10 months!

Thomas College offers the **ONLY** Master’s in Cybersecurity degree in Maine

**Now is the perfect time to prepare yourself to enter the field or expand your knowledge of cybersecurity!**

A Master’s in Cybersecurity at Thomas will provide you with a comprehensive understanding and the skills to secure, protect, and defend valuable data.

[www.thomas.edu/cybersecurity](http://www.thomas.edu/cybersecurity)

The Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine.

**MMA’s services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.**

For more information visit the MMA website: [www.memun.org](http://www.memun.org)

ship.

The transfer station, which sends its municipal solid waste across the border to Southwest New Brunswick Service Commission in St. Stephen, has stopped recycling everything but newspaper, cardboard and cans.

Cherryfield, which is part of the Pleasant River Solid Waste Disposal District, pays for its trash via taxes and doesn't have a per-bag fee. Administrative Assistant Mona West said that if the glut for recyclables continues, the select board would need to make a decision how to proceed.

"We don't get a lot anyway," she said. "We used to do plastics and mixed paper." It would take a while to get a load, she said, which would then be hauled from Cherryfield's transfer station to the Pleasant River facility. Cherryfield has solid waste contracts with Deblois, Beddington and the southern division of Township 10.

No one has any indication of whether China will maintain its policy long term or ease up in the next few months. What effect this will have on recycling in Maine remains to be seen. Since 1989, the state has worked to reach a 50 percent recycling rate, hit-

ting 36.79 percent in 2016.

"We want people to keep recycling," Grondin said. "The hope is that we will remain status quo. China just represents such a huge portion of the market."

"We don't have an end in sight," Horton said. "Are we going to dump in other countries? If not the landfill, then it has to be burned. Once you go back to not recycling, it might be kind of hard to go back to recycling." ■



When you need  
community-centered  
solutions and clear  
communication

**HEB**  
*Engineers*

CIVIL • STRUCTURAL • SURVEY

An employee-owned company  
in Bridgton, ME & North Conway, NH  
[HEBENGINEERS.COM](http://HEBENGINEERS.COM)

## Experienced Lawyers for Established Communities

Drummond Woodsum attorneys *Amy Tchao, David Kallin, Richard Spencer, Bill Stockmeyer, Aga (Pinette) Dixon and Lisa Magnacca* guide towns, cities and local governments through a variety of complex issues including:

- Land use planning, zoning and enforcement
- Ordinance drafting
- Coastal and shorefront access
- Bond issues and financing options
- Municipal employment and labor matters
- Litigation and appeals

Learn what the Drummond Woodsum  
**Municipal Practice Group** can do for you at:

[dwmlaw.com](http://dwmlaw.com) | 800.727.1941

**DrummondWoodsum**  
ATTORNEYS AT LAW

Scenes from the  
4th Annual **Municipal**  
**HR & Management** Conference

**June 14, 2018**  
**Thomas College**  
**Waterville, ME**



**Presented by: Maine Municipal Association**  
**In cooperation with: Maine Local Government Human Resources Association**

*Photos by Ben Thomas*



Scenes from the  
4th Annual **Municipal**  
**HR & Management** Conference

**June 14, 2018**  
**Thomas College**  
**Waterville, ME**



**Presented by: Maine Municipal Association**  
**In cooperation with: Maine Local Government Human Resources Association**

*Photos by Ben Thomas*



## 2018 MMA CONVENTION INTO THE FUTURE

Credit card payments accepted  
with online registrations!

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



### Keynote – Daniel Sieberg Mind Blown: The Future of Transportation

Thursday, October 4 – 9:00-10:15 a.m.

When you're asked about "transportation issues," do you think of snow plows, culverts and potholes? Many Mainers do, with good reason. But the future of transportation – stunningly, in 10 years or less – includes driverless cars and aerial drone deliveries on a mass scale. Consider: Our young and unborn kids and grandkids may never learn how to drive. And, we all will "interact" with drones at our front doorsteps, as drone deliveries could make UPS and FedEx drivers obsolete.



### Up or Flat? The State of Maine's Economy

FEATURED SPEAKER – Amanda Rector, Maine State Economist

Wednesday, October 3 – 9:00-10:30 a.m.

Historically low unemployment – and mill closures. A growing state budget surplus – and pressure on property taxes. A higher minimum wage – and trouble recruiting young professionals. For every positive report about Maine's economy, there seems to be a step back as well. State Economist Amanda Rector will kick off MMA's 2018 Convention with a comprehensive look at Maine's economy and what it means for leaders at the local level.



### What a Ride: The State of Maine's Elections

FEATURED SPEAKER – Matthew Dunlap, Maine Secretary of State

Wednesday, October 3 – 10:45 a.m.-12:00 p.m.

Ranked-choice voting dominated our election cycle earlier this year, and thrust Maine into the national spotlight for its political innovation. How did it go overall? What does the future hold? Maine Secretary of State Matthew Dunlap will take us behind the scenes this election year and offer his views on the historic vote that is just a month away.



### Walkable Cities

FEATURED SPEAKER – Jeff Speck

Thursday, October 4 – 11:45 a.m.-1:30 p.m.

How do we solve the problem of ever-sprawling suburbs and their associated costs? Community planner Jeff Speck shows how we can free ourselves from our dependence on the car by making towns and cities more walkable, safer and more pleasant for people, especially in a state that's getting older.

# The 2018 MMA Convention – 82nd Anniversary Year Preliminary Lineup

## Wednesday, October 3, 2018

Taped interviews with the 2018 Gubernatorial Candidates will be airing throughout both days of Convention in the Hancock Room.

### 7:30 a.m. Registration Begins

*Certification: Valid for 1.25 MTCMA Certification credits in the following categories: Human Resources and Finance/Budget.*

### 7:30 – 10:30 a.m. Continental Breakfast

### Noon – 1:30 p.m. Awards Luncheon

### 9:00 – 10:30 a.m. WELCOME AND FEATURED SPEAKER

#### Up or Flat? The State of Maine's Economy

Historically low unemployment – and mill closures. A growing state budget surplus – and pressure on property taxes. A higher minimum wage – and trouble recruiting young professionals. For every positive report about Maine's economy, there seems to be a step back as well. State Economist Amanda Rector will kick off MMA's 2018 Convention with a comprehensive look at Maine's economy and what it means for leaders at the local level.

*Presenter:* Amanda Rector, Maine State Economist

*Certification: Valid for 1.25 MTCMA Certification credits in the following categories: Finance/Budget.*

### 1:30 – 1:45 p.m. Break/Visit with Exhibitors

### 1:45 – 2:45 p.m. Concurrent Sessions

#### MMA Annual Business Meeting

Please join us as President Linda Cohen, Vice President Mary Sabins and Executive Director Stephen Gove shed light on MMA's upcoming priorities and topics that arose in 2018, including an overview on the MMA dues formula and our Hometown Careers campaign.

*Certification: Valid for 1.00 MTCMA Certification credit in the following category: Leadership.*

#### Senior Citizens & Property Taxes (Co-sponsored by Maine Municipal Tax Collectors' and Treasurers' Association)

Still developing at "press time," this session will provide examples of how some cities and towns handle the delicate issue of senior citizen homeowners who fall behind on paying their property taxes. The speakers will outline real municipal program examples, as well as look at the recent legislative history of this topic area.

*Presenters:* Kate Dufour, Director, MMA State & Federal Relations; other speakers TBD

*Certification: Valid for 1.00 MTCMA Certification credit in the following categories: Leadership and Legal. Valid for 5 MMTCTA points toward certification as tax collector or treasurer.*

### 10:30 – 10:45 a.m. Break/Visit with Exhibitors

### 10:45 a.m. – 12:00 p.m. FEATURED SPEAKER

#### What a Ride: The State of Maine's Elections

Ranked-choice voting dominated our election cycle earlier this year, and thrust Maine into the national spotlight for its political innovation. How did it go overall? What does the future hold? Maine Secretary of State Matthew Dunlap will take us behind the scenes this election year and offer his views on the historic vote that is just a month away.

*Presenter:* Matthew Dunlap, Maine Secretary of State

*Certification: Valid for 1.25 MTCMA Certification credits in the following categories: Leadership and Elected Relations.*

#### Pedestrian Safety & Traffic: Open Discussion

Pete and Steve with MaineDOT will lead an open discussion on a variety of subjects such as road maintenance, proper pavement striping, crosswalk safety, ADA requirements, speed reduction technologies, traffic signal maintenance, and more.

*Presenters:* Pete Coughlan, MaineDOT Local Roads Center; Stephen Landry, MaineDOT Traffic Engineer

*Certification: Valid for 1.00 MTCMA Certification credit in the following categories: Leadership and Finance/Budget.*

### 10:45 a.m. – 12:00 p.m. Concurrent Sessions

#### Budgeting for Capital Improvement Projects

Let BMSI walk you through the planning and budgeting process for major capital improvement projects. This session will help you decide which assets need improvement and when, by considering what is required to sustain the performance or level of service, the current condition, risks and consequences. The speaker will also cover the best funding strategies available.

*Presenter:* Bruce Perlo, III, Senior Management & Development, Business Management Systems (BMSI)

*Certification: Valid for 1.25 MTCMA Certification credits in the following category: Finance/Budget.*

#### Preservation: No Such Thing as a Permanent Dump Truck

This session will show why preserving your community's written history is so important. William Stewart of Kofile Technologies will provide a brief history of paper, an overview of elements that are destroying your permanent records, what can be done to save them, the benefits of paper vs. microfilm vs. electronic images, and a four-point plan to get a preservation program running in your community.

*Presenter:* William Stewart, Kofile Technologies

*Certification: Valid for 1.00 MTCMA Certification credit in the following category: Leadership.*

#### Demystifying the Spending Account Alphabet Soup

This session will provide information on the different types of spending accounts that employers can choose to offer in conjunction with employer-sponsored health plans. Our expert will discuss HRAs, HSAs and FSAs, explain when each of these accounts may be offered, and who can take advantage of them. The panel also will include municipal employers, who will describe their spending account strategies.

*Presenters:* Susan Dublin, Vice President, Group Dynamic; municipal speakers TBD

### 2:45 – 3:00 p.m. Break/Visit with Exhibitors

### 3:00 – 4:00 p.m. Concurrent Sessions

## Wednesday, October 3, 2018

### Sexual Harassment in the Workplace

The prevalence of sexual harassment in the workplace has taken on new proportions, toppling leaders in business, the entertainment industry and government. How can local leaders and managers minimize the chances of this happening in their municipal offices without infringing on employees' legal rights?

*Presenters:* Sarah Newell and Ryan Dumais, Attorneys, Eaton Peabody

*Certification:* Valid for 1.00 MTCMA Certification credit in the following categories: Ethics, Human Resources and Legal.

### Maine Is Changing: Approaching Diversity

The demographics of Maine are changing rapidly. As our state ages, and the demand for new employees and elected officials grows, local leaders must think more about diversity – in age, gender, sexual orientation and ethnic background. Hear two leading municipal officials discuss what's happening pro-actively in their communities on the issue of diversity.

*Presenters:* Perry Ellsworth, Town Manager, South Berwick; Mandy Levine, Workforce Diversity & Inclusion Specialist, City of Portland.

*Certification:* Valid for 1.00 MTCMA Certification credit in the following categories: Leadership and Ethics.

### MMA Salary Survey Update

Maine Municipal Association's online Municipal Salary Survey entered its third year in 2018, and we've made significant changes to make it more printer-friendly and easier to use. More than 210 municipalities enter data and use the survey each year. This is a valuable management, financial and HR tool that you need to know more about.

*Presenter:* Holly Maki, Project Manager, Dynamic Benchmarking

*Certification:* Valid for 1.00 MTCMA Certification credit in the following category: Human Resources.

### 4:00 – 5:30 p.m. Member Appreciation Reception

### 5:00 – 6:00 p.m. Bus Tour of Hallowell, Update on Water Street Project

The City of Hallowell, the Capital City's closest neighbor, has a lot to offer. Ride along for a behind-the-scenes tour of Hallowell's downtown area and an insider's look at its major Water Street road construction project. A limited number of bus seats are available on a first-reserved, first-served basis.

## Thursday, October 4, 2018

### 7:30 a.m. Registration

### 7:30 – 9:00 a.m. Buffet Breakfast

### 9:00 – 10:15 a.m. KEYNOTE SPEAKER

#### Daniel Sieberg – Mind Blown: The Future of Transportation

When you're asked about "transportation issues," do you think of snow plows, culverts and potholes? Many Mainers do, with good reason. But the future of transportation – stunningly, in 10 years or less – includes driverless cars and aerial drone deliveries on a mass scale. Consider: Our young and unborn kids and grandkids may never learn how to drive. And, we all will "interact" with drones at our front doorsteps, as drone deliveries could make UPS and FedEx drivers obsolete.

*Certification:* Valid for 1.25 MTCMA Certification credits in the following category: Leadership.

### 10:15 – 10:30 a.m. Break/Visit with Exhibitors

### 10:30 – 11:45 a.m. Concurrent Sessions

#### Writing the Perfect Town Meeting Warrant

Drafting and posting a town meeting warrant requires considerable forethought and careful preparation. This nuts and bolts discussion will cover the essential elements of a warrant, including the nature, content and form of a warrant, its preparation, signing and posting, and other special considerations and pitfalls to avoid.

*Presenters:* Breana Gersen, Staff Attorney, MMA Legal Services Department; Christine Wolfe, Clerk, Town of Freeport

*Certification:* Valid for 1.25 MTCMA Certification credits in the following category: Legal.

#### Recovering from a Cyber Event

Cyber-attacks, and subsequent losses, are often not considered when considering recovery measures after catastrophes. However, it is more important than ever before to start creating defenses to protect your

community against the increase in frequency and severity of these attacks. Dr. Appunn will provide suggestions on how to prepare, detect, react, repair and recover from attacks and risks that may prevent your office from functioning.

*Presenter:* Dr. Frank Appunn, CISSP, PhD, Professor, Thomas College

*Certification:* Valid for 1.25 MTCMA Certification credits in the following categories: Leadership and Finance/Budget.

#### Legislative Policy Committee Meeting & Lunch

(Christopher G. Lockwood Conference Center, MMA)

### 11:45 a.m. – 1:30 p.m. LUNCHEON & FEATURED SPEAKER:

#### Jeff Speck – The Walkable City

How do we solve the problem of ever-sprawling suburbs and their associated costs? Community planner Jeff Speck shows how we can free ourselves from our dependence on the car by making towns and cities more walkable, safer and more pleasant for people, especially in a state that's getting older.

*Certification:* Valid for 1.25 MTCMA Certification credits in the following category: Leadership.

### 1:30 – 2:30 p.m. Dessert Social & Mentalist Show!

Head to the exhibit hall for desserts, one last chance to visit with exhibitors and - A truly unique entertainment experience!

Stephan Master of the Senses, Maine's very own mentalist magician, will wow you with his amazing mind reading skills and one of a kind sensory perceptions.

### 2:30 – 3:30 p.m. Concurrent Sessions

#### Cutting Through the Haze: New Marijuana Laws and Real World Examples

MMA staff attorney Rebecca McMahon and Legislative Advocate Garrett

## Thursday, October 4, 2018

Corbin will provide a brief overview of recent changes to Maine's medical and non-medical marijuana laws, and two municipal officials will describe their regulatory efforts. The second half of this panel will be devoted to Q&A for your burning questions.

*Presenters:* Garrett Corbin, Legislative Advocate, MMA State & Federal Relations; Rebecca McMahon, Staff Attorney, MMA Legal Services; Other Speakers TBD

*Certification:* Valid for 1.00 MTCMA Certification credit in the following categories: *Legal and Finance/Budget.*

### LED Street Lights: How, Why and What's Next?

Municipalities now have options for how they manage, maintain and pay for street lights. Hear from two municipalities that have converted to LED street lights on their experiences and the options available to you, which could help you save money and reduce energy consumption. Also learn how Portland is taking it to the "next level" through technologically advanced control systems and a variety of technologies such as public Wi-Fi, intelligent traffic signals, EV charging stations and environmental sensors.

*Presenters:* Nathan Poore, Town Manager, Town of Falmouth; Troy Moon, Environmental Programs Manager, City of Portland

*Certification:* Valid for 1.00 MTCMA Certification credit in the following categories: *Leadership and Finance/Budget.*

### Being Civil in an Uncivil Time

Council meetings getting heated? Citizen groups taking to social media to bash your decisions? Maine is one of four pilot states that are developing a new model for communities to adopt civil respect. Will your town be one of them? These seasoned local officials will discuss this new initiative to revive civil discussion and debate into our local government democracy.

*Presenters:* Ryan Pelletier, County Administrator, Aroostook County; Pam Plumb, former Mayor and Councilor of Portland; Mark Hewes, State Director, Maine Revives Civility

*Certification:* Valid for 1.00 MTCMA Certification credit in the following categories: *Leadership and Ethics.*

### Right to Know

Attorneys from MMA's Legal Services Department offer Right to Know training that is required for both elected officials and municipally appointed Public Access Officers. Attendees will get certificates that they completed the course.

*Presenters:* Richard Flewelling, Assistant Director, Legal Services, MMA; Susanne Pilgrim, Director, Legal Services, MMA

*Certification:* Valid for 1.00 MTCMA Certification credit in the following category: *Legal.*

### 3:30 p.m. Adjourn

## Overnight Accommodations

### Best Western Augusta Civic Center Inn

110 Community Drive, Augusta ME 04330 • 207-622-4751  
Tuesday, October 2, 2018 and Wednesday, October 3, 2018  
Rate: \$77 per night plus 9% occupancy tax  
Cutoff date is September 18, 2018  
Under: Maine Municipal Association

### Homewood Suites by Hilton

377 Western Avenue, Augusta ME 04330 • 207-480-2050  
Tuesday, October 2, 2018 and Wednesday, October 3, 2018  
Rate: \$119 per night plus 9% occupancy tax  
Cutoff date is September 1, 2018 at 11:59 p.m.  
Group Code is: MMA  
Booking Link: [https://secure3.hilton.com/en\\_US/hw/reservation/book.htm?inputModule=HOTEL&ctyhocn=AUGWEHW&spec\\_plan=CHW/MMA&arrival=20181002&departure=20181004&cid=OM,WW,HILTONLINK,EN,DirectLink&fromId=HILTONLINKDIRECT](https://secure3.hilton.com/en_US/hw/reservation/book.htm?inputModule=HOTEL&ctyhocn=AUGWEHW&spec_plan=CHW/MMA&arrival=20181002&departure=20181004&cid=OM,WW,HILTONLINK,EN,DirectLink&fromId=HILTONLINKDIRECT)

## Affiliate Association Programs

Please see full Convention program for additional offerings, highlights, special events and CEU/Certification credits/points. The following sessions have been prepared by and are sponsored by individual affiliate associations. All sessions are open to all Convention attendees.

### Maine Association of Assessing Officers (MAAO)

*Co-Sponsored by Maine Chapter of IAAO*

**Wednesday, October 3**

**10:45 a.m. – 12:00 p.m. Enough About BETE**

Whether we like it or not, municipalities must address the newest BETE statute and continue to apply a consistent approach to the eligibility requirements set forth in the law. A panel of professional state and municipal assessors will answer your questions regarding the definition of service vs retail; consistency in the administration of approvals and denials of eligibility; and the status of the transition from BETR reimbursement to BETE exemption.

*Presenter:* Nicole Philbrick, Maine Revenue Services

*Certification:* This session is approved for 1.25 CMA/CAT re-certification credits through Maine Revenue Services

**MAAO/IAAO Luncheon will follow at Augusta Civic Center (must pre-register for regular MMA Awards Luncheon)**

**1:45 – 2:45 p.m. The Next Generation of 911**

This session will highlight the roles and responsibilities of municipalities as a partner in the overall processing of a 911 emergency call. It will also cover the processing of a 911 call from different origination sources such as landline, VoIP (Voice over Internet Protocol), wireless and texting.

*Presenter:* Bob Gasper, Technical Support Manager, Emergency Services Communication Bureau

*Certification:* This session is approved for 1 CMA/CAT re-certification credit through Maine Revenue Services

### Maine Chapter of American Public Works Association (MCAPWA)

**Thursday, October 4**

**8:30 – 8:45 a.m. MCAPWA Business Meeting**

Opening Remarks, Election of Officers & General Meeting Business.

**8:45 – 9:30 a.m. Aerial Drone Utilization for Engineering/Public Works/Municipal Projects**

*Presenter:* Kevin Connolly, Sevee & Maher Engineers, Inc.

**9:30 – 9:45 a.m. Road Scholar Presentations**

*Presenter:* Pete Coughlan, MaineDOT Local Roads Center

# Affiliate Association Programs

## **10:00 – 11:00 a.m. Business Case Evaluation (BCE) for the City of Portland's Back Cove South Storage Project**

*Presenters:* Kate Mignone, Project Manager, AECOM; Chris Branch, Director of Public Works, City of Portland

## **11:00 a.m. – 12:00 p.m. What's Happening at MaineDOT?**

*Presenter:* David B. Bernhardt, Commissioner, MaineDOT

## **MCAPWA Luncheon will follow at Augusta Civic Center (pre-registration required)**

## **Maine Chiefs of Police Association (MCOPA)**

*Thursday, October 4*

## **10:30 – 11:45 a.m. Maine Law Enforcement Accreditation Program**

The new Maine Law Enforcement Accreditation Program (MLEAP) makes accreditation attainable for every law enforcement agency in Maine. Accreditation is the "next level" of professional excellence and can be a source of great pride for officers and communities. Program Director Liz Allen will share an overview and explain how MLEAP can help an agency demonstrate professional excellence, reduce risk, reassure residents and improve department performance.

*Presenter:* Liz Allen, MLEAP Program Director, Maine Chiefs of Police Association

## **Maine Community Development Association (MCDA)**

*Thursday, October 4*

## **10:30 – 11:15 a.m. Municipal Solutions for Community Solar**

This presentation will cover a financial instrument, known as a Power Purchase Agreement (PPA) that ReVision Energy offers to municipalities investing in solar. The PPA allows cities and towns to install solar at no upfront cost, and enables them to take advantage of federal tax incentives. Through this opportunity, municipalities can reduce energy expenses while acting as leaders in climate change.

*Presenter:* Steve Hinchman, Chief Counsel, Director of Development, ReVision Energy

## **11:15 a.m. – 12:00 p.m. How to Bring Broadband to Your Community**

Are you interested in bringing broadband internet to your community, but have questions about the financial and technical implications? Join the Maine Community Development Association (MCDA) along with speakers from the Connect Cumberland Initiative and Maine Broadband Coalition. Using the existing Three Ring Binder infrastructure, Cumberland County is working with communities and non-profits to develop a County-wide fiber network. This session will go through the project's concept, regional need and positive impacts.

*Presenters:* Travis Kennedy, Special Projects Liaison, Cumberland County; Other TBD, Maine Broadband Coalition

## **12:30 p.m. Membership Luncheon will follow at Margarita's Restaurant.** To register, please contact Tracey Steuber: [tsteuber@lisbonme.org](mailto:tsteuber@lisbonme.org).

## **Maine Fire Chiefs' Association (MFCOA)**

*Wednesday, October 3*

## **10:30 a.m. – 12:30 p.m. Annual Meeting and Maine Fire**

## **Chief of the Year Award and Luncheon at Maine Municipal Association**

## **1:00 p.m. – 4:00 p.m. Maine EMS: Where We Came From and Where We Are Going**

An overview of the Maine EMS system – past, present and future.

*Presenter:* Shaun St. Germain, Director, Maine EMS

## **Maine Government Finance Officers Association (MGFOA)**

*Wednesday, October 3*

## **10:30 a.m. – 12:00 p.m. TBD**

## **1:45 p.m. – 2:45 p.m. TBD**

## **Maine Municipal Tax Collectors' and Treasurers' Association (MMTCTA)**

*Co-Sponsored by Maine Town, City and County Management Association (MTCMA)*

*Wednesday, October 3*

## **10:45 a.m. – 12:00 p.m. Reading a Municipal Audit Report**

A look at audit reports – what to realistically expect from them, what should be included and what are the key indicators for a healthy or troubled town or city.

*Presenter:* Craig Costello, CPA, CGMA, Brantner, Thibodeau & Associates, Bangor

*Certification:* Valid for 5 points towards certification as tax collector or treasurer. Valid for 1.25 MTCMA Certification credits in the following category: Finance/Budget.

## **Maine Town & City Clerks' Association (MTCCA)**

*Thursday, October 4*

## **9:00 a.m. – 3:30 p.m. State Agency Updates**

## **9:00-9:30 a.m. Vital Records Updates, Becky Marston**

## **9:30-10:00 a.m. Inland Fisheries & Wildlife Updates, Chet Chessman, Moses Supervisor and Management Analyst**

## **10:30-11:30 a.m. Elections Updates, Julie Flynn, Deputy Secretary of State**

## **1:30-2:00 p.m. Animal Welfare Updates, Liam Hughes, Director of Animal Welfare**

## **2:30-3:30 p.m. Liquor Enforcement, Laurence Sanborn, Division Manager**

*Certification:* Attendance at the MMA Convention is valid for 2 optional points for MTCCA Certification.

## **Maine Welfare Directors' Association (MWDA)**

*Wednesday, October 3*

## **3:00 p.m. – 4:00 p.m. General Assistance Overview**

Is your Municipality in compliance with General Assistance rules? This session will address things you've always wanted to know about GA but were afraid to ask.

*Presenters:* Jay Feyler, Town Manager, Town of Union; Others TBD

Pay by credit card when you register online here: <https://memun.org/Convention/Registration>

# Attendee Registration Form

**MMA Convention – Augusta Civic Center – October 3 & 4, 2018**

**One registrant per form (please photocopy for additional registrations)**

BILLING INFORMATION:	NAME BADGE INFORMATION:	<i>*Name badge will read as indicated here.</i>
Full Name: _____	First Name: _____	
Employer: _____	Last Name: _____	
Billing Address: _____	Primary Title: _____	<i>(Please list one)</i>
City, State, Zip: _____	Employer: _____	
Phone: _____		
Email: _____		

**I plan to attend (choose ONE):**  Wed 10/3  Thur 10/4  Both Days

CONVENTION REGISTRATION FEES (For one or both days):			Cost
<input type="checkbox"/> MMA Members	Registration Fee	\$ 80.00	
<input type="checkbox"/> Non-members	Registration Fee	\$ 160.00	

**Current LPC Members should register using a separate form provided by the State & Federal Relations Dept.**

MEALS:			Cost
<b>WEDNESDAY LUNCHEON (OCT 3):</b>			
<input type="checkbox"/> Awards Luncheon (Buffet) – Augusta Civic Center (North Wing)		\$ 18.00	
<b>THURSDAY LUNCHEONS (OCT 4):</b>			
<input type="checkbox"/> Luncheon (Buffet) – Augusta Civic Center (North Wing)		\$ 18.00	
<input type="checkbox"/> Maine Chapter of American Public Works Association (MCAPWA)	<i>Augusta Civic Center (Piscataquis/Sagadahoc Rooms)</i>	\$ 18.00	
<b>Civic Center Luncheons:</b> <i>Due to ticket demand, there are two luncheon rooms - assigned on a first-reserved, first-served basis. There will be a live video feed of the awards presentations in the 2nd luncheon room on Wednesday only.</i>			
<b>TOTAL (Registration Fee &amp; Meals) \$</b>			

## SPECIAL EVENTS

**For planning purposes, please select if you are attending these complimentary activities:**

Bus Tour of Hallowell (Wed 10/3)  Member Appreciation Reception (Wed 10/3)  Dessert Social & Mentalist Show (Thur 10/4)

**Payment Options:**  Send invoice\*  Check will be mailed\*\*  Payment Enclosed\*\* PO #: \_\_\_\_\_

*(\*\*Please send a copy of this registration form with payment)*

**→ Credit card payments accepted with online registration only. ←**

**Fax registration form to:** (207) 626-5947 **Mail form to:** Convention Registration, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Please make check payable to: Maine Municipal Association**

**Questions/Cancellations:** Cancellation notification must be given in writing at least 3 business days before the start of Convention. Any cancellation received within that 3 day window will be charged the full registration fee. All cancellations are subject to a \$10 administrative fee for processing. Registrations may be transferred to another official or employee. Please go to: <http://www.memun.org/TrainingResources/WorkshopsTraining/Cancellations.aspx> to cancel or email: [wsreg@memun.org](mailto:wsreg@memun.org). If you have any questions please contact Louise Ridley at (800) 452-8786 or (207) 623-8428. Please inform us of any special dietary needs or special requirements you may have due to a disability.

**Please keep a copy of this form for your records.**

# Maine Municipal Association Ethel N. Kelley Memorial Award

...MMA's Most Prestigious Award

## NOMINATIONS BEING ACCEPTED

**Deadline for Receipt of Nominees – Friday, August 31, 2018 by 12:00 noon.**



Ethel N. Kelley devoted 45 years of service to the Maine Municipal Association – from its founding in 1936 until her death in 1981. The award honors her immense contributions to the MMA and the cause of strong local government in Maine. Some have described her as the “cement” that held the organization together, particularly during World War II. During those years, she served in many capacities. She virtually held every title and did every job in the Association.

In celebration of MMA's 50th Anniversary in 1986, the Association honored Ethel N. Kelley's memory by recognizing other volunteer or employed municipal officials of the same character and dedication. This year MMA will recognize its 32nd Recipient!

### **CRITERIA: Do you know someone in your municipality who...**

- ★ *Is dedicated to the cause of good local government.*
- ★ *Has conscientiously served local government and made this a lifetime achievement for 20 years or more.*
- ★ *Has demonstrated the capability and willingness to “Hold the Community Together.”*
- ★ *Has a selfless concern for others in their community.*
- ★ *Has not received full recognition for their service in local government.*
- ★ *Is currently serving or has retired in the past two years (may be given posthumously if within the past two years).*

**MMA wants to know about them! Send your nomination and give MMA the opportunity to recognize their achievement and dedication to local government.**

**NOMINATION PROCESS:** Please forward your Nomination and up to five letters of support from local or state officials, business leaders and/or members of the community. The Nomination Form is available on the reverse side or can be completed interactively on the MMA website at [www.memun.org](http://www.memun.org). ***The supporting letters are a critical part of the process.*** Care should be taken to describe in detail why your Nominee should receive this award and to assure that they highlight the criteria referenced above. Please give examples of your Nominee's efforts.

**SELECTION PANEL:** The Award Selection Panel will consist of three MMA Past Presidents who will meet in mid to late September to make their selection.

**PRESENTATION:** The Award will be presented at the MMA Annual Convention during the Awards Luncheon with the Recipient's family and friends, coworkers and the statewide municipal family present. The MMA Awards Luncheon is scheduled for **Wednesday, October 3, 2018 at 12:00 p.m. at the Augusta Civic Center.**

For more information, please contact Theresa Chavarie, MMA Manager of Members Relations at 1-800-452-8786 ext. 2211 or by e-mail at [tchavarie@memun.org](mailto:tchavarie@memun.org)



60 Community Dr., Augusta, ME 04330  
207-623-8428 • [www.memun.org](http://www.memun.org)

LOCAL GOVERNMENT  
*begins with* **you.**



# Maine Municipal Association Ethel N. Kelley Memorial Award

## NOMINATION FORM

\*\*\*\* Due Date – Friday, August 31, 2018 by 12:00 noon \*\*\*\*

(Please complete all applicable sections)

Nominee's Name: \_\_\_\_\_

Municipality Served: \_\_\_\_\_

**LIST MUNICIPAL ELECTED/APPOINTED POSITIONS** (Please include services provided to any municipality):

Position(s): \_\_\_\_\_ Municipality: \_\_\_\_\_ Length of Service: \_\_\_\_\_

Position(s): \_\_\_\_\_ Municipality: \_\_\_\_\_ Length of Service: \_\_\_\_\_

Position(s): \_\_\_\_\_ Municipality: \_\_\_\_\_ Length of Service: \_\_\_\_\_

**LIST MUNICIPAL VOLUNTEER POSITIONS** (Please include services provided to any municipality):

Position(s): \_\_\_\_\_ Municipality: \_\_\_\_\_ Length of Service: \_\_\_\_\_

Position(s): \_\_\_\_\_ Municipality: \_\_\_\_\_ Length of Service: \_\_\_\_\_

Position(s): \_\_\_\_\_ Municipality: \_\_\_\_\_ Length of Service: \_\_\_\_\_

Please Include Total Number of Years Dedicated to Municipal Service: \_\_\_\_\_

**Membership in Professional Associations:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Recognitions Received:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Is the Nominee Retired from His/Her Municipal Positions/Career?**

YES (When did Nominee retire? \_\_\_/\_\_\_/\_\_\_)  NO (Anticipated retirement date? \_\_\_/\_\_\_/\_\_\_)

**Is the Nominee Retired from His/Her Non Municipal Work Career?**

YES  NO

**Is the Nominee deceased and being considered posthumously?**  YES

**Nominated by:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Municipality: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Municipality: \_\_\_\_\_ Date: \_\_\_\_\_

Please complete and return with up to (5) supporting letters. **The supporting letters are critical to your success.** Care should be taken to describe in detail why your nominee should receive MMA's most prestigious award. Send completed Nomination Form and letters by **12:00 noon on Friday, August 31, 2018** to:

**MMA Ethel N. Kelley Memorial Award – Selection Panel  
Maine Municipal Association, 60 Community Drive, Augusta, ME 04330**

# PEOPLE



**Bruce Boucher**

Rockland Police Chief **Bruce Boucher** will end his 41-year Maine law enforcement career in September. Boucher worked for the Brunswick Police Department for 23 years, leaving the town as a police commander

to take the job of director of security for Bowdoin College. Boucher was hired as Rockland chief in 2005 – the first police chief to be hired from outside the department in 50 years. He holds a degree in criminal justice from now-Bryant University in Smithfield, R.I., and a Master's degree in business administration from Southern New Hampshire University. He succeeded the late chief **Alfred Ockenfels**, who retired in 2005 after 16 years as chief, and who died of a stroke in January.



**Christopher Eaton**

**Christopher Eaton** ended his service as a Tremont selectman on April 30, having served four straight terms beginning in 2006. At the time of his retirement, Eaton was the longest-serving selectman in Tremont.

Eaton was named harbormaster in 1987 and, over the next 30 years, served on the harbor and wharf committees, and also the comprehensive planning board. Selectmen thanked Eaton and recognized that with his departure, the board lost extensive institutional knowledge. For more than 30 years, Eaton owned Harbor Divers, teaching scuba diving, and operated a dive tour for thousands of tourists. He spent his winters doing what he loved most – diving for scallops.

Veteran Camden Select Board member **John French** served as chairman during his final meeting at the annual town meeting on June 13, ending a 21-year run as selectman. French worked with four town managers and said his municipal work often took him away from his small business. Despite the time constraints, French said he continued running for selectman because the town was always in the middle of a project.

Deputy Fire Chief **Chad Johnston** retired in June from the Goodwins Mills Fire-Rescue Department after 30 years. The department is located in the York County town of Dayton and also serves neighboring Lyman. Johnston started his career at the age of 14 as a junior firefighter. He was named deputy chief in 2012 and had served as a captain for many years prior to that. Johnston also has worked as a full-time firefighter for the City of Portland and said recent changes to his Portland job made it difficult to hold both positions. Effective July 1, Assistant Chief **Ben Harris** will assume Johnston's job, while Capt. **Matt Duross** will replace Harris as assistant chief.



**David Mains**

Raymond Fire & Rescue Capt. **David Mains** died June 25 in a motorcycle crash on Interstate 495 in Chelmsford, Mass. Mains, 48, was the father of four. He graduated from Windham High School and earned a degree in architecture drafting from the Wentworth Institute of Technology in Boston. During his 10 years with the department, Mains won several awards, including firefighter of the year. Mains was one of three captains in the 32-member department who supervised fire prevention and inspection efforts. At press time, his wife, who was a passenger on the motorcycle, was recovering from injuries in a Massachusetts hospital.

**James Alden Nadeau**, former town manager of Portage Lake for seven years and Eagle Lake for 20, died in early May at the age of 68. Nadeau served for many years as first selectman of Winterville Plantation. He was a Marine Corps military policeman during the Vietnam War, returning home to work for Pinkham Lumber as an electrician while raising his family and beginning his municipal career. Nadeau's family said Mr. Nadeau considered his six grandchildren as the "greatest gift" of his life.

**James Pelletier** is the new Limestone highway foreman after teaching truck driving at Northern Maine Community College in Presque Isle. Pelletier, who also

has worked for the Maine Department of Transportation, started his new job on April 30.



**Clarice Proctor**

**Clarice Proctor** was named finance director and treasurer for Androscoggin County, effective in mid-May. She replaces former Treasurer **Robert Poulin**, who resigned for health reasons in February and died in March.

Poulin had served since 2001. For the past year, Proctor has worked as finance director for Sagadahoc County in Bath. Proctor, who lives in Lewiston, has worked for 25 years for various nonprofit agencies. Proctor was hired by a unanimous vote of the county commission.

**Christopher Reed** was named Rumford fire chief in June, replacing **Robert Chase**, who accepted the job of Auburn deputy fire chief last December after serving as Rumford chief since 2009. Reed's son, Luke, pinned the chief's badge on his father during a swearing-in ceremony in mid-May. Reed said he wants his firefighters to build strong relationships with their mutual aid partners.

York Parks and Recreation Director **Michael Sullivan** retired at the end of June after 39 years. When he joined the department in 1979 as a 23-year-old college graduate, Sullivan was a one-man show charged with developing and marketing recreation programs for both adults and children. The department now includes 12 full-time employees and a seasonal staff of nearly 100. He was succeeded by Assistant Director **Robin Cogger**, who was chosen from a pool of 30 applications from across the nation. ■

If your municipality submits a news item for the Maine Town & City, consider sending a corresponding photo to:

Eric Conrad:  
econrad@memun.org  
or  
Jaime Clark  
jclark@memun.org

## STATEWIDE

The Maine Department of Environmental Protection has issued two air quality warnings this year, compared to six for all of 2017. Warm temperatures and muggy conditions reduce the quality of air, especially in all of Maine's cities and large towns, and force people with breathing problems to stay indoors. Maine has the third highest rate of asthma in the U.S. A recent report showed that nearly half of Maine residents experienced nearly a month or more of days with unclean air in 2016. Researchers said the numbers are concerning since the state is just now entering its warmest and stuffiest season.

## STATEWIDE

The U.S. Army Corps of Engineers has awarded Maine nearly \$12 million for dredging projects in the coming year. Most of the money will fund projects in four municipalities: \$4.2 million is budgeted for Saco River dredging in Saco and Biddeford; and the York Harbor and Cape Porpoise Harbor (Kennebunkport) projects will receive \$2.5 million each. There will be some money remaining for a few smaller and less expensive projects. The dredging work will improve safety and navigational concerns of fishermen and recreational boaters, according to Maine's U.S. Sens. Susan Collins and Angus King.

## AUGUSTA

Summit Natural Gas of Maine is finishing its five-year project to install 192 miles of distribution and 68 miles of transmission underground steel pipes. The more than 250 miles of pipe have been installed up the Kennebec River Valley and in the Cumberland-Yarmouth-Falmouth areas. The project cost \$350 million. Major customers include municipalities along the pipes' route, the Sappi mill in Skowhegan and Madison's Backyard Farms. The final leg of the project was announced in February when the Colorado-based company began laying more than 46,000 feet of pipe in Sidney, outside of Augusta. Now that the "backbone" of has been installed, the company will focus on connecting customers to the system.

## CARIBOU

The city has been notified that its request for \$2.5 million in Federal Emergency Management Administration (FEMA)

NEW ON THE WEB [www.memun.org](http://www.memun.org)

**'Fair Share' Ruling.** The U.S. Supreme Court issued a major ruling in late June that will have a profound impact on municipal employers with union employees.

**Legislative Policy Committee.** Ballots are due by Aug. 2 for a seat on Maine Municipal Association's 70-member Legislative Policy Committee, which steers MMA staff on priorities in Augusta.

**Municipal Issues Paper.** Our State & Federal Relations staff produced a 24-page document that provides important historical context to both municipal and legislative leaders regarding key issues, as we enter the 2018 legislative session.

funds to repair a badly damaged road has been denied. The council will seek other financing for the River Road project. Councilors in May voted to reimburse four homeowners up to \$1,000 a month in expenses to relocate until the road can be repaired. It was pummeled by an April rain storm; the runoff ate away half of the road. Since the storm, the road has deteriorated further.

## ISLE AU HAUT

The island town seven miles off the coast of Stonington is proceeding with an energetic plan to get its electricity from a solar-powered microgrid. Similar efforts are being pursued on most of Maine's 15 year-round islands as residents seek some form of energy independence. Presently, Isle au Haut gets its electricity from a 35-year-old cable that runs from Stonington to the six-mile-long island. The current proposal is to skip replacing the cable at an estimated cost of \$1.7 million and instead install solar grid for its 140 customers. The town is served by a member-owned for-profit cooperative. It studied diesel and wind ideas, but settled on solar as the best bet. Two companies, one in Portland and another in Putney, Vt., will design and build the grid, which must be operational by Dec. 31 if investors are going to be able to take advantage of tax credits in 2019. The plan has been in the making for three years and was approved by ratepayers two years ago.

## OLD TOWN

The U.S. Customs and Border Protection agency is in "preliminary" talks about moving its air and marine division from Houlton to Old Town's city airport, which is more centrally located in the state. Old Town proposes a \$5,500 a month lease that would last 15 years. Construction of a new facility would cost \$1.3 million. A new hangar and command center are part of the city's proposal. Officials for the city and the agency said the talks are ongoing and no final decision has been made.

## PORTLAND

Residents in the 73 municipalities served by ecomaine are being asked to be more careful when recycling plastic bags because they "contaminate" mixed paper recyclables and makes it harder for the company to find markets that will take it. Markets for mixed paper have dwindled; rather than reaping \$100 a ton for the mixed mess, the company now must pay \$60 a ton to get rid of it. Over time, those numbers will likely translate into increased solid waste disposal costs to the cities and towns served by ecomaine. The firm is owned by 21 municipalities, but serves 73 communities in 11 counties. Countries such as China and Vietnam are buying far less mixed paper. If residents put plastic in the paper bins, they spoil any chance of handing off the refuse to any country or company. ■

The Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine. **MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.** For more information visit the MMA website: [www.memun.org](http://www.memun.org)

# MUNICIPAL BULLETIN BOARD

**JULY 19**

## **Elected Officials Workshop: East Millinocket**

Attorneys and staff from MMA's Legal Services and Communication & Educational Services departments will lead a workshop for Elected Officials on July 19 at the East Millinocket Town Office. The evening workshop begins with registration at 4 p.m. and ends at 8:30 p.m., including a light dinner. Officials who attend will receive a certificate showing they have met the state's Freedom of Access training requirement.

The workshop is designed for newly elected officials, but veteran councilors and select board members will benefit from the refresher and legal updates as well. Topics include: open meeting and records; roles and responsibilities; effective communication; media relations; and, conflicts of interest, among others. Cost for the workshop is \$55 for MMA members and \$110 for non-members.

**JULY 25**

## **New Clerks: Bangor**

The Maine Town and City Clerks' Association will hold a new clerks' workshop on July 25 at the Spectacular Event Center in Bangor. The day-long course is designed to familiarize newly elected and appointed clerks to the duties and responsibilities of this important office.

The instructors include: Patty Brochu, City Clerk in Old Town; and, Patti Dubois, City Clerk in Waterville. The course covers an array of topics, and is valuable to clerks from large and small municipalities. Registration begins at 8:30 a.m. The workshop concludes with a Q&A session at 4 p.m. Cost is \$60 for MTCCA members and \$80 for non-members.

**JULY 26**

## **Planning Boards/BOA: Portland**

MMA's Legal Services Department will host a session for local Planning Board and land use Boards of Appeal members from 4 p.m. to 8:30 p.m. on July 26 at the Clarion Hotel on Congress Street in Portland.

The workshop is designed as an introduction for new or less experienced members, but veterans may find an update useful as well. Among the topics to be covered: jurisdictional issues; public

notice requirements; site visits; procedure for decisions; and, variances. The cost is \$55 for MMA members and \$110 for non-members.

**JULY 26-27**

## **MMTCTA Basic Accounting: Waterville**

Marc Roy, an audit manager with Berry Talbot and Royer Certified Public Accountants will lead this two-day workshop on accounting principles. Attendance for both days is required to attain certification. The workshop will touch on accounting terms and cycles, computer postings, posting annual tax commitments and account reconciliation.

Cost for the workshop is \$110 for MMTCTA members and \$140 for non-members. Both elected and appointed treasurers are encouraged to attend. The workshop will be held at the Waterville Elks Banquet and Conference Center. Registration begins at 8 a.m. on July 26.

**AUG. 8-10**

## **73rd New England Management Institute: Newry**

The Maine Town, City & County Management Association's biggest training event of the year will be held on Aug. 8-10 at the Sunday River Resort in Newry. The program begins with registration at 7:30 a.m. on Wednesday, Aug. 8 and will run through noon on Friday, Aug. 10. Costs vary depending on number of days attending and accommodation requests.

The theme of this year's program is, "The View from 30,000 feet: Watching the World Change." The keynote speaker is Jennifer Rooks, host of the "Maine Calling" program on the Maine Public Broadcasting Network. Other workshops and programs are scheduled. Networking with fellow managers is also an important and valuable part of this annual event.

**AUG. 14**

## **MMTCTA: I've Got the Job, What Now?**

The Maine Municipal Tax Collectors' and Treasurers' Association will hold a one-day workshop designed to take attendees through a significant portion of their roles and responsibilities in public office. The workshop may include topics such as: nature of the job; settlement and discharge; delinquent property taxes; excise taxes; role of the treasurer; disbursements and warrants; investments; and, much more.

Presenter will be Stu Marckoon, Treasurer in the Town of Lamoine. The workshop will begin with registration at 8:30 a.m. and will conclude at 3:30 p.m. Cost is \$55 for MMTCTA members and \$85 for non-members. The workshop will be held at Maine Municipal Association's Christopher G. Lockwood Conference Center in Augusta.

**AUG. 29**

## **Elected Officials Workshop: South Berwick**

Attorneys and staff from MMA's Legal Services and Communication & Educational Services departments will lead a workshop for Elected Officials on Aug. 29 at the Spring Hill Ballroom in South Berwick. The evening workshop begins with registration at 4 p.m. and ends at 8:30 p.m., including a light dinner. Officials who attend will receive a certificate showing they have met the state's Freedom of Access training requirement.

Topics include: open meeting and records; roles and responsibilities; effective communication; media relations; and, conflicts of interest, among others. Cost for the workshop is \$55 for MMA members and \$110 for non-members. ■



Simple ✓  
Convenient ✓  
High Quality ✓  
Low-Cost ✓

MAINE  
START

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

Contact: Stephanie Fecteau

tel: 207-512-3305

e-mail: Stephanie.Fecteau@mainepers.org

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

# LEGAL NOTES

## Plastic Bag Ordinances

A growing number of towns and cities in Maine (at least 14 at last count) have adopted ordinances either prohibiting or imposing a fee on single-use carryout plastic shopping bags. We wondered why, so we've been doing some research.

It turns out that, according to reliable studies, less than 3% of plastic bags are recycled, which means that more than 97% are used once and then thrown away – destined either for a landfill or to become litter. Either way, plastic bags add significantly to the municipal costs of managing solid waste and litter control.

Plastic bags also pose serious environmental impacts, both on land and in the water. They degrade very slowly, and besides the visual pollution, they ensnare curious fish and wildlife and clog culverts and drains.

There are better alternatives to disposable plastic bags, but paper, it seems, is not one of them. While about half of paper bags are recycled, it costs more to collect, transport and recycle them because they are much heavier than plastic. In fact, on a lifecycle basis, paper bags (which are not made in Maine's paper mills) have a greater environmental impact than plastic ones.

Thus, the problem for municipalities is how to incentivize shoppers to use reusable bags instead of single-use plastic or paper bags. As we noted above, for a growing number of towns and cities, the solution is an ordinance. About half of the ordinances we're aware of simply ban single-use plastic bags altogether. The other half impose a fee (generally 5 cents) on plastic and paper bags, payable to the retailer. (Making the fee payable to the municipality would arguably constitute an illegal tax.)

For a detailed town-by-town description of plastic bag ordinances in Maine, with links to the ordinances themselves, go here: <http://www.baglaws.com/legislation.php?state=Maine>

And for a very helpful "Reusable Bag Ordinance Toolkit" from the Natural Resources Council of Maine, go here: <https://www.nrcm.org/projects/sustainability/sustainable-maine-community-toolkits/reusable-bag-ordinance-toolkit/>

Incidentally, State law permits retailers to use plastic bags to bag products at the point of sale only if the retailer (1) main-

## MUNICIPAL CALENDAR

**BY AUGUST 1** — Local Roads Assistance Program (LRAP) certification forms must be returned to MaineDOT Community Services Division prior to August 1st. This is an annual certification that must be completed by a municipality to receive URIP funds. Effective July 1, 2008, there is a requirement for municipalities to provide information on how the previous fiscal year's funds were expended.

**ON OR BEFORE AUGUST 15** — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333 (22 MRSA §4311).

**BETWEEN MAY 1 AND OCTOBER 1** — Municipal officers may initiate process to close certain ways during winter months (23 MRSA §2953). For further information, see the MMA Municipal Roads Manual.

**BY SEPTEMBER 1** — Clerks of organized plantations shall make return to the Secretary of State, on blanks furnished by him for that purpose, of the names of the assessors and clerks of their plantation and that the same have been sworn. There is a penalty for failure to make such a return (30-A MRSA §7005). ■

tains a receptacle for collecting used bags and (2) ensures that the bags are recycled (see 38 M.R.S. § 1605) (By R.P.F.)

## Mandated Reporters of Child Abuse or Neglect

Maine's Child and Family Services and Child Protection Act (22 M.R.S. Ch. 1071) designates certain people, including various municipal officials, staff, and volunteers, as "mandated reporters" of child abuse or neglect.

In addition to teachers, guidance counselors, social workers, and other school officials, local law enforcement officials, fire inspectors, code enforcement officers, emergency medical services personnel, and social service workers must immediately report to or cause a report to be made to the Department of Health and Human Services (DHHS) when they know or have reasonable cause to suspect that a child has been or is likely to be abused or neglected (see 22 M.R.S. § 4011-A(1)).

Mandated reporters also include any persons having full, intermittent or occasional responsibility for the care or custody of a child, regardless of compensation, such as coaches and other staff and volunteers for recreation programs, after-school programs, etc. (see 22 M.R.S. § 4011-A(1)(B)).

All mandated reporters must complete DHHS-approved training at least once every four years (see 22 M.R.S. § 4011-A(9)).

"Abuse or neglect" is broadly defined in the Act as a threat to a child's health or

welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these, or failure to ensure compliance with school attendance requirements, by a person responsible for the child (see 22 M.R.S. § 4002(1)). "Child" means any person who is less than 18 years of age (see 22 M.R.S. § 4002(2)).

Anyone who, in good faith, makes a report of child abuse or neglect is immune from any civil or criminal liability for doing so (see 22 M.R.S. § 4014). There is a rebuttable presumption of good faith under the Act, but good faith does not include making a false report if it is known to be false.

Any knowing violation of the Act, including failure of a mandated reporter to complete training or make a report of child abuse or neglect, is a civil violation for which a forfeiture of up to \$500 may be adjudged (see 22 M.R.S. § 4009).

For more information, including training opportunities, contact info for training-related questions, and the telephone number for reporting abuse or neglect, see the DHHS's dedicated webpage here: <http://www.maine.gov/dhhs/ocfs/mandated-reporters.shtml> (By R.P.F.)

## Property Tax Relief for Maine Residents

The following are current State laws providing property tax relief for eligible Maine residents. (This list does not include veterans' exemptions, programs for

# LEGAL NOTES

businesses, or “current use” programs for farmland, open space, tree growth, and working waterfront.)

**Homestead exemption** (36 M.R.S. §§ 681-689). A partial property tax exemption for Maine residents owning a permanent homestead in Maine for at least 12 months preceding application. Application must be made to the assessor before April 1<sup>st</sup> of the year first eligible; annual reapplication is not required provided the taxpayer remains eligible. For details, see MMA’s “Information Packet” on this subject, available at [www.memun.org](http://www.memun.org).

**Property tax fairness credit** (36 M.R.S. § 5219-KK). A personal income tax credit for homeowner and renters who were Maine residents during any part of the tax year, who owned or rented a primary residence in Maine during any part of the tax year and paid property tax or rent on that residence, who meet certain income and property tax and/or rent paid limitations, and who are not married filing separately. For details, see the Maine Revenue Services website at <http://www.maine.gov/revenue/>.

**Poverty abatement** (36 M.R.S. § 841(2)). A full or partial abatement of property taxes on the primary residence of any taxpayer who, in the judgment of the municipal officers (selectmen or councilors), is unable, by reason of hardship or poverty, to contribute to the public charges. For details, see MMA’s “Information Packet” on this subject, available at [www.memun.org](http://www.memun.org).

The following are additional local options for providing property tax relief:

**Tax clubs** (36 M.R.S. § 505). A municipality may establish a “tax club” by authorizing eligible taxpayers to pay in installments during the tax year without accruing interest charges. Tax clubs must be authorized by the municipal legislative body (town meeting or town or city council).

**Local homestead tax benefits** (36 M.R.S. § 6232). A municipality may, by ordinance, adopt a program to provide benefits to persons with homesteads in the municipality. The program may be restricted to persons who are at least 62 years of age, and must require that the claimant has a homestead in the municipality, must provide benefits to both owners and renters, and must calculate benefits in a way that provides greater benefits proportion-

ally to claimants with lower incomes in relation to their property taxes accrued or rent constituting property taxes accrued.

**Senior volunteer tax credits** (36 M.R.S. § 6232(1-A)). A municipality may, by ordinance, adopt a program to permit claimants who are at least 60 years of age to earn credits against their property taxes up to a maximum of \$750 by volunteering to provide services to the municipality. Additional procedures and eligibility standards may be established by ordinance.

**Senior tax deferral** (36 M.R.S. § 6271). A municipality may, by ordinance, adopt a program to allow deferral of property taxes on eligible homesteads owned by taxpayers who are at least 70 years of age, who have resided there for at least 10 years prior to application, and whose household income does not exceed 300% of the federal poverty level. The law includes additional provisions addressing accrual of interest, liens to secure the municipality’s claim for taxes, annual notices to claimants, and events terminating the deferral.

We should note that apart from these four local options, State law does not authorize any other form of local property tax relief, and municipalities have no “home rule” authority to offer any because the Maine Constitution preempts the field of taxation (see Me. Const. art. IX, § 9).

Also noteworthy is that there is no State funding available for any of these local options, so any funds required would have to be raised locally (presumably from other taxpayers who are ineligible for the relief provided). This probably accounts for the fact that, apart from tax clubs, only a relative handful of municipalities have adopted any of these local options. (By R.P.F.)

## Televising Board Meetings

*Question:* Our community television

station has begun televising our board meetings, but some board members are uncomfortable with this and feel intimidated. Can we prohibit it?

*Answer:* No. Maine’s Freedom of Access Act (FOAA) or “Right to Know” law explicitly entitles any member of the public to make audio or video recordings of, or to live broadcast, all public proceedings, provided that doing so does not interfere with the orderly conduct of the meeting (see 1 M.R.S. §404). Discomfort with being on camera does not constitute interference with the orderly conduct of the meeting. However, a board may adopt reasonable rules governing recording or televising (such as designating a place for setting up equipment) as long as the rules do not defeat the public’s right to record or televise the proceedings.

Televising local board meetings, typically via community television, is in fact a common and longstanding practice in many of Maine’s towns and cities. It’s an excellent way to inform and engage the citizenry in municipal business and, in our view, should be encouraged. Officials who are uncomfortable on camera simply need to get over it – publicity comes with the job. (By R.P.F.) ■

## PROFESSIONAL DIRECTORY



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

[www.aehodsdon.com](http://www.aehodsdon.com)  
207-873-5164

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



America’s Most Convenient Bank®

Member FDIC TD Bank, N.A. | Equal Housing Lender

## 2018 FALL 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 Fall Issue.

AUGUST						
			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	

SEPTEMBER						
						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						

OCTOBER						
	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			

NOVEMBER						
				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	

### Wednesday, August 1st

Application Deadline.

### Wednesday, August 29th

Application approval (Board Meeting).

### Thursday, September 13th

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

### Friday, September 14th

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

### Monday, October 1st & Tuesday, October 2nd

Maine Municipal Bond Bank Pricing.

### Wednesday, October 3rd

Maine Municipal Bond Bank Sale Meeting (Board Meeting).

### Wednesday, October 17th

Final documents due from bond counsel.

### Wednesday, October 31st

Pre-Closing.

### Thursday, November 1st

Closing - Bond Proceeds Available (1:00 PM).

If you would like to participate in or have any questions regarding the 2018 Fall Bond Issue, please contact Toni Reed at 1-800-821-1113, (207) 622-9386 or tir@mmbb.com.



When you need a

**tax team** that feels like

part of **your community.**



**N. Joel Moser**



**Kevin Decker**

Meet the Municipal Tax Team. We provide comprehensive expertise and partner with you to solve tough challenges.

**BERN  
STEIN  
SHUR**

[bernsteinshur.com/municipal-governmentalservices/](https://bernsteinshur.com/municipal-governmentalservices/)