

Property, Sales & Income

Tax Committee Finalizes Budget Recommendations

With the last votes cast on Wednesday, the Taxation Committee finalized its recommendations on the property, sales and income tax elements of Governor Paul LePage's proposed FY 2018-19 biennial General Fund budget. As would be expected, the Committee was divided on the more controversial issues in the budget, including capping at 2% the amount of state sales and income tax revenue distributed to municipal officials through the Municipal Revenue Sharing program, expanding the sales tax base, reducing the income tax rates and effectively repealing the most recently enacted citizen initiated law calling on the state to fund 55% of the cost of K-12 education.

The Taxation Committee's recommendations will be forwarded to the members of the Appropriations Committee for their consideration as they work on further developing the budget. It is unlikely that the specifics of that amended budget will be available for public inspection until mid-to-late May. The budget initiative updates that follow provide a description of the tax-related proposals found in the Governor's budget and the Committee's vote on the initiatives. The fiscal note that calculates how these Committee recommendations impact the bottom line are in the process of being finalized. The votes on proposed revenue and expenditure line items are voted either "in" (support) or "out" (opposed) of the budget.

Revenue Sharing. In 2015, the Legislature statutorily, but temporarily, reduced from 5% to 2% the portion of state sales and income tax revenue distributed to communities under the municipal revenue sharing program. According to current law, the share of state sales and income tax revenue is restored to 5%

in FY 2020. The Governor's budget proposes to repeal the restoration to 5% by permanently reducing transfers to the revenue sharing program to the 2% level. The Committee voted this proposal out of the budget by a margin of 7 to 6. The majority report supports current law, which restores revenue sharing to the 5% level

in FY 2020. The minority report adopts the budget proposal to permanently cap at 2% the sales and income tax revenues distributed to municipalities under the revenue sharing program.

During the deliberations on the revenue sharing proposal, the House Chair

(continued on page 2)

First-In-The-Nation PTSD Presumption Unanimously Approved

On Tuesday the Labor, Commerce, Research and Economic Development Committee (LCRED) held a work session on LD 848, *An Act To Support Law Enforcement Officers and First Responders Diagnosed with Post-traumatic Stress Disorder*. This bill establishes a new "rebuttable presumption" under workers' compensation law that when a law enforcement officer, firefighter, corrections officer or emergency medical services worker is diagnosed by a licensed psychiatrist or psychologist as having post-traumatic stress disorder, the disorder is presumed to have arisen out of and in the course of the worker's employment.

The majority of the work session focused on an amendment offered by the Maine Hospital Association. The amendment aimed to clarify that the diagnosis of post-traumatic stress disorder (PTSD) by a physician licensed in psychiatry or licensed psychologist must include an indication that the PTSD resulted "out of and in the course of the claimant's employment." To the Hospital Association, the language of LD 848 as drafted seemed to allow a diagnosis of PTSD to trigger the workers' compensation presumption

without any clear connection between the disorder and the circumstances leading to the disorder, which may or may not have been work-related.

LCRED Committee co-chair, Senator Amy Volk of Cumberland County, also offered an amendment to the bill that would automatically repeal or "sunset" the new PTSD presumption after five years. Additionally, her proposal would require the Director of the Workers' Compensation Board, the Maine Municipal Association, and a representative of the state to report back to the Legislature prior to the sunset, in January of 2022. The report would include information relating to the fiscal impact of this new presumption, which applies exclusively to public employees.

A fourth amendment, offered by Paul Sighinolfi, Director of the Maine Workers' Compensation Board, would exclude corrections officers from the proposed PTSD "rebuttable presumption" standard. He suggested this change to the printed bill because he does not believe corrections officers are exposed to the same level or types of traumatic incidents as law enforcement officers and first responders

(continued on page 3)

of the Taxation Committee, Representative Ryan Tipping of Orono, referenced a March 22 public hearing on several bills proposing to amend the way in which the revenue sharing program is funded. Rep. Tipping alluded to the fact that the Committee's work session on the bills, scheduled for April 11 at 1:00 p.m., might further impact the budget. As detailed in the March 24 edition of the Legislative Bulletin, included in the mix of revenues sharing bill, is LD 133, submitted on behalf of MMA's Legislative Policy Committee. As proposed, LD 133, *An Act To Support Lower Property Taxes by Restoring State-Municipal Revenue Sharing* would incrementally restore revenue sharing by 1% each year until FY 2020 when 5% of sales and income tax would once again be shared with municipalities.

Homestead Exemption. Under existing law, both the value of the Homestead Exemption provided to all qualifying Maine resident homeowners and the amount of state reimbursement for the lost property tax revenue are scheduled to increase on April 1, 2017. The value of the exemption is to increase from \$15,000 to \$20,000 and the state reimbursement from 50% to 62.5%. The Governor's budget proposes to amend those scheduled program changes. Beginning on or after April 1, 2017 the Homestead Exemption would be set at \$20,000 but only Maine resident homeowners 65 years of age or older would qualify. In addition, the state reimbursement for lost property tax revenue would be reduced from 62.5% to 50%. The Taxation Committee unanimously voted to move the Homestead Exemption proposal *out* of the budget. As a result, all Maine homeowners would

remain eligible to receive the \$20,000 exemption and the state would also honor its commitment to increase state reimbursement for the property tax revenue lost from 50% to 62.5%.

BETR to BETE Conversion. The Governor's proposed budget seeks to convert the approximately \$2.5 billion in taxable property currently enrolled in the Business Equipment Tax Reimbursement (BETR) program to tax exempt status by transferring its enrollment into the Business Equipment Tax Exemption (BETE) program over a four-year period. The conversion schedule requires that in FY 2018, 25% of the value of the property enrolled in the BETR program be shifted to the BETE program, in FY 2019, 50% of the value, in FY 2020, 75% of the value, until FY 2021 when 100% of the value of the property enrolled in BETR is shifted to the BETE program. The Committee voted this proposal *in* to the budget by a margin of 7 to 6. The majority report supports the Governor's proposal, while the minority report opposes it.

Two-way Telecommunications Services. Under current law, the state is the taxing authority for two-way telecommunications personal property (e.g., telephone and broadband infrastructure). As proposed by the Governor, on April 1, 2018 that property would become taxable at the local level, resulting in a shift of roughly \$6.5 million of annual revenue from the state to the municipalities. The Taxation Committee unanimously voted to move the two-way telecommunication taxing authority proposal *in* to the budget.

Property Tax Fairness Credit. Under current law, Maine residents are eligible for an income tax credit that is equal to 50% of a portion of the property taxes or rent paid that exceeds 6% of a resident's income, with overall caps on income level in order to qualify. For single and married joint income tax filers, the maximum credit provided to a resident under the age of 65 is \$600 and \$900 for residents 65 years of age and older. For married individuals that file separate income tax forms, the maximum credit for a resident under the age of 65 is \$300 and \$450 for a resident 65 and older. In the Governor's proposed budget, for tax years beginning on or after Jan. 1, 2018,

income qualifying Maine residents would be eligible for an income tax credit that is equal to 100% of a portion of property taxes or rent paid that exceeds 5% of a resident's income. The maximum credit for a resident under 65 years of age would be \$750. The maximum credit for a resident age 65 and older would \$1,000. All Maine tax filers age 65 or older with annual incomes of less than \$20,000 would be guaranteed a minimum income tax credit of \$400. Married taxpayers that file separately would not qualify for the property tax credit. The Taxation Committee unanimously voted to move the proposed increases in the property tax fairness credit *in* to the budget.

Income Tax Reduction. Over the next three years the Governor is proposing to reduce both the number of income tax brackets and the tax rates assessed. For tax year 2017, the current three brackets of 5.8%, 6.75% and 7.15% would be retained. In tax year 2018, the Governor is proposing two brackets of 2.75% and 3.15%. For tax years beginning on or after January 1, 2019, a flat tax rate of 2.75% would be assessed on all Maine income tax filers (who would all, also, be subject to the 3% surcharge. See below.). The Committee voted *in an amended version* of the Governor's income tax proposal by a margin of 6 to 5. As amended in the majority report, beginning with tax year 2018, the three current income tax brackets would be reduced from the current rates to 5.75%, 6.49% and 6.99%. As a result of that change, the majority report makes an additional \$155 million in income tax revenue available for other expenditures in comparison to the Governor's budget. The majority report further directs that a portion of those funds be used to capitalize the Homestead Exemption proposal described above. The majority report also recommends that the remaining additional income tax revenue generated by majority's income tax rate amendments, an estimated \$100 million, be used to fund K-12 education or as the Appropriations Committee sees fit. The minority moves the Governor's income tax proposal out of the budget.

Surcharge for K-12 Public Education. As enacted by the voters of Maine

(continued on page 3)

Legislative Bulletin

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

Subscriptions to the *Bulletin* are available at a rate of \$20 per calendar year. Inquiries regarding subscriptions or opinions expressed in this publication should be addressed to: *Legislative Bulletin*, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330. Tel: 623-8428. Website: www.memun.org

Editorial Staff: Geoffrey Herman, Kate Dufour, Garrett Corbin and Laura Ellis of the State & Federal Relations staff.

Property, Sales & Income (cont'd)

at the Nov. 8, 2016 referendum election, beginning on Jan. 1, 2017 a 3% surcharge is to be assessed on the portion of taxable income that exceeds \$200,000. The revenue generated by the surcharge was dedicated by the initiative to support K-12 classroom expenses. The Governor's budget proposes to delay the implementation of the surcharge to Jan. 1, 2018, apply the surcharge on all Maine income taxpayers (rather than just those with an income over \$200,000), and repeal the provision adopted by the voters requiring the revenues to be transferred to the Fund to Advance K-12 Public Education. The Committee voted to **repeal** the law by a margin of 6 to 5. The minority report moves the recommendation out of the budget, thereby retaining the enacted law that assesses a 3% surcharge on the portion of income tax that exceeds \$200,000 and dedicates those funds to K-12 classroom expenses.

Sales Tax on Lodging. As proposed by the Governor, the sales tax rate for lodging would be increased from 9% to 10%. The Committee voted this proposal **out** of the budget by a margin of 6 to 5. The majority report opposes the increase in the lodging sales tax rate. The minority report moves the increase to the lodging tax in to the budget.

Expanded Sales Tax Base. Finally, with exceptions for business-to-business transactions, the Governor is proposing to apply the general 5.5% sales tax to a broad range of services, including household services, installation, repair and maintenance services (other than for motor vehicles, watercraft and aircraft), personal services, personal property services, and certain recreation and amusement services. The Committee voted this proposal **out** of the budget by a margin of 6 to 5. The majority opposes the proposed expansion of the sales tax base. The minority report moves that proposal in to the budget.

Although these recommendations will be transferred to the Appropriations Committee, it is possible that the Taxation Committee could revisit the sales tax base expansion and income tax rate reduction proposals. Last week, the Committee asked Governor LePage to direct the Department of Administration and Financial Services' staff to calculate

how the proposed sales and income tax changes would impact Maine individuals and families and the extent to which those changes are exported, which means paid by non-Maine residents. As of Wednes-

day, the Governor had not responded to the request. If the Committee receives the data, the members plan to reevaluate decisions on those elements of the proposed budget.

PTSD Presumption Unanimously Approved (cont'd)

warranting the "rebuttable presumption" special workers' compensation treatment.

All proposed amendments to LD 848 were unanimously supported by the members of the LCRED Committee, putting into motion what is believed to be the nation's first statewide statutory presumption of workers' compensability by employers for PTSD.

While MMA appreciates the inclusion of a sunset provision, the amendment does not target the concerns raised during the hearing. First responders and law enforcement personnel repeatedly testified that a deep cultural stigma against the acknowledgment of stress and emotional trauma exists within their community. The testimony pointed to this stigma as the reason why these employees do not avail themselves of the early intervention treatment solutions that would allow them to address the trauma before their mental stress grows into PTSD. The primary proponent of LD 848, the Maine chapter

of the National Alliance on Mental Illness, explicitly stated in its testimony that their advocacy for this presumption was "due to the pervasive stigma that prevents officers from practicing positive self-care."

Solutions such as counseling are already available to much of this community through their municipal health insurance-provided employee assistance programs. Rather than favoring a more proactive, preemptive approach to this cultural issue, LD 848 imposes a late intervention Band-Aid which comes at a new and probably significant cost to the property taxpayers.

The committee will have a chance to review the formally drafted language of this amendment, as well as the "fiscal note" projecting the financial impact of this amended version of LD 848, at a future date to be determined. If this unanimous vote in support of a new presumption against public employers is a matter of concern to you, please make that concern known to your legislators as soon as possible.

State Water Trust Bill Defeated

Majority Supports Restoration of Planning Committee Instead

On Thursday, the Energy, Utilities and Technology Committee held a work session on LD 422, *An Act To Facilitate the Creation of the Maine Water Trust To Regulate and Protect Maine's Water Supply and To Ensure the Quantity and Quality of Maine's Drinking Water*. As drafted, LD 422 proposed a two-year moratorium on large-scale water extraction contracts, as well as the creation of a Maine Water Trust that would develop a legislative proposal to, among other things, create absolute state dominion over groundwater in Maine.

At the work session, there did not appear to be support among the Committee for either the proposed moratorium or the establishment of the trust. There was, however, an interest among many Committee members in examining the state's

groundwater resources. This interest led to a discussion about whether it would be appropriate to replace the bill's language with a proposal to re-establish the Water Resources Planning Committee. This Planning Committee existed from 2005-2007 before having its statutory authorization repealed, perhaps inadvertently.

Committee Co-chair, Senator David Woodsome of York County, posed a question regarding the cost of reviving this committee. The Maine state geologist answered that he would be able to operate the Water Resources Planning Committee with existing resources within the Department of Agriculture, Conservation and Forestry. Upon hearing this answer, a motion was made to replace LD 422 as

(continued on page 8)

Proposal Weakens “Practical Difficulty” Variance Standard

The State and Local Government Committee held a public hearing Wednesday on a bill that proposes to substantially loosen the “practical difficulty” variance test for dimensional standards (lot and structure size, setback distances, etc.).

This test is currently available as an alternative to the statutory “undue hardship” variance test, and must currently be adopted by ordinance to be utilized by Boards of Appeals as an alternative to the standard for variance criteria. For four reasons described below, LD 1082, *An Act To Amend the Laws Governing the Granting of a Variance from the Dimensional Standards of a Zoning Ordinance*, would provide applicants in all municipalities that have adopted zoning ordinances with an option to more easily – and in MMA’s view, too easily – receive a dimensional variance.

The sponsor of this bill, Representative Dick Campbell of Orrington, submitted LD 1082 on behalf of the Maine Real Estate and Development Association (MEREDA). A representative of MEREDA explained to the committee that the basis of their proposal is a particular difficulty in achieving code enforcement or planning board approval for accessory housing expansions necessitated by the aim of allowing elderly people to remain in their homes and “age in place.”

The sponsor and MEREDA were joined in their support by the Maine Association of Realtors and Maine Preservation, a statewide historic preservation organization based in Yarmouth. Maine Preservation testified that LD 1082 would further the policy known as “in-filling,” whereby existing buildings, particularly in downtown areas, are renovated and revitalized for residential and commercial purposes. The bill would achieve that aim by relaxing what they view as frequent “over-zoning,” where zoning ordinances require larger lots or greater setbacks than would be typical in the existing neighborhood. The Association of Realtors testified that this bill replaces the allegedly “challenging” practical difficulty standard with an allowance for variances to be granted based on how a project fits into a neighborhood. Instead of the zoning code, the primary focus would be on development or neighborhood consistency.

These proponents described the changes proposed in this bill as “sensible.” To MMA’s Legislative Policy Committee, which opposed LD 1082, the purpose of the bill (beyond weakening variance standards) was entirely unclear, and the method of the bill is anything but sensible. Before detailing this method, and the association’s reasons for objecting, some background may be warranted.

Currently, the primary variance policy available by statute to all municipalities with zoning ordinances is the undue hardship test. This test is intentionally strict, because the legal purpose of a variance is to protect the rights of landowners only when ordinances would inadvertently create a regulatory taking when applied. Without a constitutional takings issue, codes adopted by a municipality’s legislative body should be adhered to.

Municipal officials, attorneys, and planners generally believe the more appropriate means of addressing a difficulty posed by a zoning code is through amending the land use ordinance standards themselves, by a local legislative act, not by weakening the variance standards and delegating a subjective determination to an appeals board. Outside of the state-designated shoreland zone, dimensional specifications are up to the municipality. The typical method of allowing deviations to the code in certain common instances is the authorization of “conditional uses.”

The alternative “variance from dimensional standards” provision which currently exists in statute must be adopted by ordinance. If the town meeting or town or city council adopts the alternative, it sets forth a somewhat softer test than undue hardship. The practical difficulty dimensional variance is authorized, once adopted by ordinance, when the strict application of a zoning or building code would cause a “practical difficulty.”

The first change LD 1082 makes to the existing practical difficulty test allows that test to be utilized by a board of appeals without the municipality first having adopted an authorizing ordinance. Removing the ordinance-adoption requirement would mean that Maine has two co-existing but conflicting sets of variance tests in statute for dimensional standards.

LD 1082 further repeals the defini-

tion of “practical difficulty” altogether, appears to allow certain variances to be granted within the shoreland zone, and further allows variances to be granted even when the need for the variance was created by the owner or previous owner. This last change could open the door to a host of owner-created variance requests. Joining MMA in its opposition were Maine Audubon and the Natural Resources Council of Maine, who each raised questions about these changes, particularly with respect to the shoreland zoning language.

Collectively, these changes significantly lower the bar a petitioner would need to meet in order to receive a variance from dimensional standards. What is left in place in statute are four sub-tests which each contain very subjective language; “the variance is *consistent with* the general condition of the neighborhood,” granting the “variance will not produce an *undesirable* change... and will not *unreasonably* detrimentally affect the use or market value of abutting properties,” “no other *feasible* alternative” is available, and the “variance will not *unreasonably* adversely affect the natural environment.”

LD 1082 turns the relatively objective and strict standards for dimensions-related variances in current law into a set of standards that are much more subjective and lenient, while allowing these eye-of-the-beholder standards to automatically conflict with the overarching undue hardship foundation of variance law.

Variance standards are established to protect the integrity of the underlying regulatory system. Exceptions to existing code should not be granted lightly. It is important for the municipality’s legislative body to fully consider whether the practical difficulty standard is more appropriate than the undue hardship standard for that community. There is never anything stopping the regulators (e.g., the town meeting or town/city council) from relaxing the standards in the underlying regulatory system if that is what the legislative body wants. The way to achieve that end is to amend the land use codes, not to weaken the system guarding the integrity of those codes.

The work session on LD 1082 is scheduled for Wed., April 12 at 11 a.m.

LEGISLATIVE HEARINGS

Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules for hearing schedules and work sessions can be found at: <http://legislature.maine.gov/Calendar/#PHWS/>.

Monday, April 10

Education & Cultural Affairs
Room 202, Cross State Office Building, 9:30 a.m.
Tel: 287-3125

LD 1131 – An Act To Create Education Savings Accounts for Maine Students.

1:00 p.m.

LD 747 – An Act To Amend Minimum Age Eligibility for School Enrollment.

LD 826 – An Act To Prioritize the Renovation of Existing Underutilized Schools in Conjunction with the Closing of Nearby Schools Due to Declining Enrollment.

Health & Human Services
Room 209, Cross State Office Building, 9:00 a.m.
Tel: 287-1317

LD 10 – An Act To Build Greater Accountability into the General Assistance Program by Increasing the Penalty for Falsely Representing Information on an Application for General Assistance.

LD 36 – An Act To Create a 9-month Time Limit on General Assistance Benefits for Certain Persons.

LD 219 – An Act To Prioritize Use of Available Resources in General Assistance Programs.

LD 220 – An Act To Align Time Limits in the Municipal General Assistance Program and Temporary Assistance for Needy Families Program.

LD 221 – An Act To Amend the Laws Regarding the Municipality of Responsibility for General Assistance Applicants Released from a State Correctional Facility or County Jail Facility.

LD 1109 – An Act To Improve General Assistance Reimbursements.

State & Local Government
Room 214, Cross State Office Building, 10:00 a.m.
Tel: 287-1330

LD 45 – An Act Concerning the Ownership of a Causeway on Long Lake near St. Agatha.

LD 725 – An Act To Recognize Local Control Regarding Food and Water Systems.

Taxation
Room 127, State House, 1:00 p.m.
Tel: 287-1552

LD 1106 – Resolution, Proposing an Amendment to the Constitution of Maine To dedicate All Sales Taxes from All Vehicle Sales and Any Vehicle-related Sales to the Highway Fund for Roads and Bridge Capital Improvements.

Veterans & Legal Affairs
Room 437, State House, 10:00 a.m.
Tel: 287-1310

LD 1125 – An Act To Establish a Recall Procedure for Elected Officials.

LD 1204 – An Act Regarding Absentee Voting by Residents of Nursing Homes and Other Residential Care Facilities.

Tuesday, April 11

Education & Cultural Affairs
Room 202, Cross State Office Building, 1:00 p.m.
Tel: 287-3125

LD 1184 – An Act To Exempt Public Safety Buildings from Historic Preservation Restrictions.

Health & Human Services
Room 209, Cross State Office Building, 2:00 p.m.
Tel: 287-1317

LD 144 – An Act To Create a Pilot Project To Reduce Substance Use Disorders among Youth in Piscataquis County To Be Used as a Model for All Maine Communities.

LD 307 – An Act to Facilitate the Implementation of Mobile Narcotic Treatment Programs in Rural Counties of the State.

Transportation
Room 126, State House, 1:30 p.m.
Tel: 287-4148

LD 1149 – An Act To Provide Revenue To Fix and Rebuild Maine's Infrastructure.

LD 1150 – Resolve, To Establish the Road Usage Charge Task Force.

Wednesday, April 12

Criminal Justice & Public Safety
Rm. 436, State House, 9:00 a.m.
Tel: 287-1122

LD 1079 – An Act To Exempt from Criminal Liability Persons Reporting a Drug-related Medical Emergency.

LD 1090 – An Act To Amend the Laws Governing Eluding an Officer.

Education & Cultural Affairs
Room 202, Cross State Office Building, 1:00 p.m.
Tel: 287-3125

LD 1132 – An Act To Create Education Savings Accounts for Students with Special Needs.

Judiciary
Room 438, State House, 9:00 a.m.
Tel: 287-1327

LD 1120 – Resolve, Directing the Maine Commission on Domestic and Sexual Abuse To Study Economic Abuse.

Labor, Commerce, Research & Economic Development
Room 208, Cross State Office Building, 1:00 p.m.
Tel: 287-1331

LD 772 – An Act To Ensure Transparency in Public Union Negotiations.

State & Local Government
Room 214, Cross State Office Building, 9:00 a.m.
Tel: 287-1330

LD 1084 – An Act To Require That Certain Applicant Information for Certain Local Government and School Administrative Positions Be Public upon Application.

LD 1141 – An Act To Make Election Day a State Holiday.

(continued on page 6)

LEGISLATIVE HEARINGS (cont.)

LD 1142 – An Act To Repeal the Laws Establishing the Cumberland County Recreation Center and to Transfer Authority to Cumberland County.

LD 1191 – An Act To Extend to One Year the Probationary Period for Certain Municipal Employee Positions.

Taxation

Room 127, State House, 1:00 p.m.

Tel: 287-1552

LD 727 – An Act To Protect the Tax Base of Municipalities by Removing the Property Tax Exemption for Land Held for Conservation or Public Access Purposes.

LD 1076 – An Act To Replace Municipal Property Tax Revenue Lost Due to Land Acquisitions under the Land for Maine’s Future Fund.

LD 1121 – An Act Regarding the Exclusive Use of Tax Exempt Property.

LD 1180 – An Act To Provide a Definition of “Primary Residence” for Purposes of Property Tax Abatements Based on Hardship or Poverty.

LD 1196 – An Act To Assist Seniors and Certain Persons with Disabilities in Paying Property Taxes.

Veterans & Legal Affairs

Room 437, State House, 9:00 a.m.

Tel: 287-1310

LD 819 – Resolve, To Establish the Commission To Study the Adequacy of Housing Safety Laws.

Thursday, April 13

Education & Cultural Affairs

Room 202, Cross State Office Building, 1:00 p.m.

Tel: 287-3125

LD 988 – An Act Regarding Possession of a Firearm on School Property.

Environment & Natural Resources

Room 216, Cross State Office Building, 1:00 p.m.

Tel: 287-4149

LD 628 – An Act To Amend the Municipal Subdivision Laws.

LD 805 – An Act To Streamline the Municipal Review Process When Dividing a Structure into 3 or More Dwelling Units and To Amend the Process for Recording Subdivision Variances.

LD 1081 – An Act To Amend the Municipal Subdivision Laws Regarding the Exemption for Transfers to Owners of Abutting Land.

LD 1094 – An Act To Amend the Laws Governing the Review of Subdivisions.

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.

Tel: 287-1338

LD 1041 – An Act Regarding the Safe Discharge of Firearms during Deer Hunting Season.

Labor, Commerce, Research & Economic Development

Room 208, Cross State Office Building, 1:30 p.m.

Tel: 287-1331

LD 1006 – An Act Regarding Housing Insecurity of Older Citizens.

LD 1036 – Resolve, To Study Repeal of Occupational Licensing Requirements for Certain Occupations.

LD 1072 – An Act To Amend the Laws Regarding Dealers in Secondhand Precious Metals.

Transportation

Room 126, State House, 1:00 p.m.

Tel: 287-4148

LD 437 – An Act Concerning Maine’s Transportation Infrastructure.

LD 1089 – An Act To Prohibit the Use of Handheld Phones and Devices While Driving.

LD 1169 – An Act To Exempt Temporary Categorical Signs from the Identification Label Requirement for 6 Weeks Prior to the June and November Elections.

IN THE HOPPER

(The bill summaries are written by MMA staff and are not necessarily the bill’s summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the *Legislative Bulletin* to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA’s website, www.memun.org.)

Appropriations & Financial Affairs

LD 1330 – An Act To Authorize a General Fund Bond Issue To Facilitate Innovative Approaches to Regional School Facilities and To Establish the Maine Innovative Regional School Facilities Finance Program. (Sponsored by Rep. Ginzler of Bridgton; additional cosponsors.)

This bill sends to the voters a proposed \$20 million bond issue for the development of multidistrict, consolidated and integrated prekindergarten through grade 16 public school facilities. The bill also establishes the Maine Innovative Regional School Facilities Finance Program and Revolving Loan Fund, administered by the Maine Municipal Bond Bank, to provide loans to school systems to finance small-scale construction projects, including additions or renovations to existing buildings, in order to improve the regional delivery of educational services.

LD 1331 – An Act To Authorize a General Fund Bond Issue To Recapitalize the School Revolving Renovation Fund. (Sponsored by Rep. Ginzler of Bridgton; additional cosponsors.)

This bill sends to the voters a proposed \$20 million bond issue to recapitalize the School Revolving Renovation Fund for the purpose of providing funds to public schools for renovation and capital repairs.

Education & Cultural Affairs

LD 1215 – An Act To Clarify Collective Bargaining in School Districts. (Sponsored by Rep. Sylvester of Portland; additional cosponsors.)

Under current law, matters of educational policy are not subject to collective bargaining between the management of a school administrative unit and the teachers’ union. This bill authorizes but does not expressly require the public employers of school teachers to meet and negotiate with respect to matters of educational policy.

Energy, Utilities & Technology

LD 1352 – An Act to Advance Locally Owned Solar Energy Systems. (Sponsored by Sen. Woodsome of York Cty; additional cosponsors.)

(continued on page 7)

HOPPER (cont.)

This bill requires the Public Utilities Commission to issue a request for proposals to procure 35 megawatts of grid-scale solar electricity, with one qualifying project generating 10 megawatts of electricity and located on a municipally-owned capped landfill or brownfield site, 3 qualifying projects generating 5 megawatts, and 5 projects generating 2 megawatts of electricity. The Commission must also give preference to a 2-megawatt or a 5-megawatt project also located on a capped landfill or brownfield site. In addition to meeting other requirements, an applicant for a grid-scale project must document a resolution of support for the project adopted by the host municipality's legislative body or municipal officers. The commission may direct investor-owned transmission and distribution utilities to enter into contracts with a term of 20 years for the energy and capacity of a project at a rate of \$0.067 per kilowatt-hour.

Labor, Commerce, Research & Economic Development

LD 1245 – An Act To Ensure the Effectiveness of Tax Expenditures. (Sponsored by Rep. Fecteau of Biddeford.)

This bill applies to the state government and to all municipal or county governments that provide a development subsidy to a company with a value of at least \$25,000. The term "development subsidy" includes grants, loans, loan guarantees, tax increment financing benefits, matching funds, tax exemptions or abatements, etc. The bill requires those "granting" entities to track the number of full-time and part-time jobs created as a result of the subsidy, the wages and benefits provided for those jobs, and other performance data, and further requires that the subsidy be recaptured or rescinded to the degree the company failed to meet any established performance requirements of the development subsidy. The bill provides guidelines governing how the subsidy must be incrementally and proportionally recaptured or rescinded. The bill also requires the granting governmental entity to provide the subsidy performance data on a publicly accessible website.

LD 1348 – An Act to Expand the Rights of Public Employees under the Maine Labor Laws. (Sponsored by Rep. Sylvester of Portland; additional cosponsors.)

This bill allows public employees, including municipal and county employees, state and legislative employees, university, academy and community college employees and judicial employees, to strike under a process in which an affirmative vote to strike by union membership is held. The bill requires that notice be given to the public employer stating the dates upon which the strike will begin and end. The bill also provides that the employee organization or public employer may call for emergency bargaining within 3 days of the start of the strike.

LD 1358 – An Act To Improve Public Sector Labor Relations. (Sponsored by Sen. Jackson of Aroostook Cty; additional cosponsors.)

Under current law governing labor management disputes in the public sector, when the dispute cannot be resolved by negotiation according to a certain timeframe, the matter goes to arbitration. For controversies over salaries and benefits, the decision of the arbitrators is advisory; for other controversies, the arbitrator's decision is binding. This bill amends labor relations law governing municipal public employees as well as other public employees to provide that the determination by arbitrators with respect to controversies over all subjects, including salaries, pensions and insurance, are final and binding on the parties.

State & Local Government

LD 1346 – An Act To Clarify Access to Landlocked Ancient and Family Burying Grounds and To Clarify the Definition of Ancient Burying Ground. (Sponsored by Rep. Casás of Rockport; additional cosponsors.)

This bill amends the definition of "ancient burying ground" to include, but not be limited to, all private cemeteries established before or pursuant to certain public laws enacted in the early 1800s,

as well as all family burying grounds established before 1880. With respect to ancient burying grounds that are surrounded by privately owned land and without direct public access, the bill also clarifies that a municipality must be provided access to ancient burial grounds for maintenance and preservation purposes annually or as the municipality deems necessary. The bill also requires the owners of the surrounding private land to provide access to any descendants or relatives of a person buried in the ancient burial ground or their designated agents and further provides that the landowner may prescribe the route of access and may not be held liable for injuries sustained by the descendants, relatives or agents when accessing the ancient burial ground. In the cases where no unobstructed route to the ancient burial ground exists, the landowner is authorized by this bill to file a notarized document listing all obstructions with the municipal clerk.

Taxation

LD 1172 – An Act To Repeal the Maine Personal Property Tax. (Sponsored by Sen. Cushing of Penobscot Cty; additional cosponsors.)

This bill entirely repeals the personal property tax in Maine and removes all related references in statute to the personal property tax.

LD 1195 – An Act To Allow Municipalities To Opt Out of the Collection and Assessment of Personal Property Taxes. (Sponsored by Rep. Cebra of Naples; additional cosponsors.)

This bill authorizes municipalities to create a local property tax exemption for personal property if approved by the municipality's voters at referendum.

Transportation

LD 1248 – An Act To Improve Public Transportation in Maine. (Sponsored by Rep. McLean of Gorham; additional cosponsors.)

This bill appropriates \$28 million from the state's Highway Fund over the FY 2018-2019 biennium to be administered by the Department of Transportation to expand the services of regional transportation providers (\$26 million), establish a pilot "purchase of services program" in a selected regions of the state to provide senior citizens and persons with disabilities vouchers to purchase their own transportation services (\$1 million), and to support volunteer driver networks that collaborate with regional transportation providers to leverage additional resources (\$1 million).

LD 1312 – Resolve, To Investigate Extending Passenger Rail Service to Central Maine. (Sponsored by Rep. Frey of Bangor; additional cosponsors.)

This resolve appropriates \$300,000 from the state's Highway Fund in FY 2018 to pay for a study to be conducted by the Department of Transportation, in consultation with the cities of Lewiston, Auburn, Augusta, Waterville, Rockland, Bangor and other interested municipalities, that is intended to result in a plan for the implementation of passenger rail service in the state northward and westward from existing passenger rail routes. The department is directed to submit its report and recommendations to the Legislature by November 7, 2018.

LD 1328 – An Act To Promote Bicycle Safety by Placing Warning Signs on Certain Public Ways. (Sponsored by Rep. Corey of Windham; additional cosponsors.)

This bill requires the Department of Transportation and all municipalities to place bicycle warning signs on public ways or town ways that have speed limits over 35 miles per hour and have motor vehicle travel lanes in which a motor vehicle and a bicycle cannot safely travel side by side. The bill also establishes a voluntary income tax check-off system whereby income tax filers can add \$5.00 or any larger amount to their state income tax obligation for the purpose of capitalizing the Bicycle Roadway Safety Fund, which is administered by the Department for pay for the expenses of the state and local mandate.

(continued on page 8)

State Water Trust Bill Defeated (cont'd)

printed with an amendment to re-incarnate the language of the Planning Committee's previous statutory authorization. The previous language, in turn, received some technical amendments to its membership, including adding the Public Utilities Commission as a member, removing the State Planning Office's membership because that Office no longer exists, and updating the title of the Land Use Resources Council to the Land Use Planning Commission.

A majority of the Committee approved, by an 8-2 margin, passing this amended version of LD 422. The minority voted "ought not to pass."

Hopper (cont'd)

LD 1351 – An Act Regarding the Length of Time a Temporary Sign May Be Placed in a Public Way. (Sponsored by Sen. Dill of Penobscot Cty; additional cosponsors.)

Current law allows temporary signs to be placed in the public way for no more than six weeks during the calendar year, but to comply with a First Amendment decision of the U.S. Supreme Court, the law is otherwise content neutral and the signs may be installed to convey any variety of non-commercial messages. This bill amends the current sign law to allow those signs to be installed for 12 weeks of the calendar year, but those twelve weeks must be the five weeks before and the week after a primary election day and the five weeks before and the week after each general election day.

Veterans & Legal Affairs

LD 1269 – An Act To Adjust the Timing for Recounts in Certain Municipal and Local School Elections. (Sponsored by Rep. Parry of Arundel; additional cosponsors.)

This bill changes or otherwise establishes that the deadline for requesting a recount in a municipal, school or local referendum election is 10 business days after the election. The bill also provides that in a municipality that counts all ballots by hand, a recount must automatically be conducted in those elections if the total vote difference is 10 votes or fewer.