

## Old Wine in New Bottles

### Converting the hospital “leased property” exemption into BETE

Although technical in nature and entirely devoid of any snazz or pop in the telling, a curiously oblique intersection of two branches of property tax exemption policy was given a review by the Taxation Committee on Wednesday. The bill at public hearing was LD 1212, *An Act to Amend the Definition of “Eligible Business Equipment” for the Purposes of the Business Equipment Tax Exemption Program*, sponsored by Senator Roger Katz (Kennebec Cty.), a former mayor of the City of Augusta.

The first branch of tax policy was enacted 42 years ago and is a strong contender for the most outlier, discriminatory, inconsistent or non-rational provision in Maine’s entire tax code. This subsection of the law that bequeaths a blanket tax exemption to the property owned by “benevolent and charitable” corporations includes a specialty bonus exemption covering the property owned by the for-profit companies that lease personal property to hospitals.

There is no similar exemption in Maine’s tax code. No one is given an exemption “by extension.” Even the companies that lease personal property to the local governments, state government or the federal government – which collectively represent the most comprehensively tax exempt entities that can be imagined – do not enjoy tax exempt status. Only the for-profit companies that lease personal property to hospitals benefit from this exemption. Go figure.

The hospital leased property exemption, which was enacted in 1975, got in under the wire. Just a couple of years later Maine’s Constitution was amended to require state government to reimburse municipalities for at least 50% of the tax

revenue lost to the towns and cities as a result of any newly created property tax exemption. The hospital leased property exemption was also enacted 33 years before the Legislature established in law the Business Equipment Tax Exemption (BETE) program. The BETE program is the second branch of parallel tax policy. BETE would exempt this type of personal property if it wasn’t already exempt by virtue of the hospital leased-property special treatment.

Which brings us to LD 1212. If en-

acted, the bill would do nothing more than seamlessly exchange the archaic hospital leased property exemption for the modern exemption provided under the BETE program. From all the affected parties’ perspectives, there are only two real-life impacts related to this switch of one exemption for another.

The for-profit companies that lease personal property to hospitals will have to file the appropriate BETE-related information about the nature and value of that

*(continued on page 2)*

## Picking-up the Tab for Mandated Services

### The plight of county jail funding

A state, county and municipal official walk into a restaurant. While the state official orders a multi-course meal, the county and municipal officials look at each other wondering who will pay for the food. The state official, noticing a level of concern, assures the others that the tab will be split among the three. When the check arrives, the county and municipal official are relieved when the state official quickly grabs the tab and reaches for his wallet. That relief is short-lived, however, as the state official informs his dining companions that he is contributing \$20 to the \$100 tab and it is up to the municipal and county officials to cover the \$80 shortfall. The county official informs the municipal official that he does not have the revenues necessary to pay the bill, and as a result the municipal official pays for 80% of the tab.

This analogy, in a nutshell, describes the process and the municipal frustration with the current practice for funding county jail operations. The state imple-

ments the policies dictating who is imprisoned, for what length of time, and in which facilities (e.g., county jail or state prison) and provides whatever funding for a portion of those total cost that the Legislature determines available that year. The state share is not linked to a variable-based formula (e.g., number of inmates, number of bed days, inmate care costs, impact of mandates, etc.) or how reductions in other state programs (e.g., mental health services, drug addiction services, etc.) impact the burden placed on county jail operations and services. Since county governments have very few avenues for raising revenues, it is the property taxpayers, through county tax assessments, that are held accountable for funding approximately \$62 million (80% of the total) of county jail operations each year.

It is for this reason that Senator Bill Diamond (Cumberland Cty.) agreed to sponsor LD 1266, *An Act To Transfer Operations and Ownership of County*

*(continued on page 2)*

property with the appropriate municipal assessors in order to obtain the exemption. This is a task these companies routinely have to do in the other states as well as in Maine with respect to personal property they lease to businesses and tax exempt entities that do not happen to be hospitals.

The other impact is that the state will be obliged to reimburse the 32 municipalities where the hospitals are located for 50% of the lost tax revenue these towns and cities experience as a result of the exemption. In MMA's testimony in support of LD 1212, no apologies were offered for this imposition of some level of state financial obligation. The affected towns and cities are the state's "service center" communities that have been negatively impacted in a disproportionate way by the Legislature's decision over the last six years to short the Municipal Revenue Sharing Program by upwards of \$100 million each year.

Kerry Leichtman, Rockport's assessor, expressed his municipality's support for LD 1212, testifying to the negative impacts the town has experienced with the hospital leased-property exemption. Although the legislation would not erase those negative impacts, it would at least cut them in half.

No members of the general public testified in opposition. The only opponent was a representative of Governor LePage's administration, who said that LD 1212 would impose a burden on the state's sales and income taxpayers. The committee was asked to hold off on any decision regarding LD 1212 until it had a chance to review the Governor's proposed approach to the issue of tax exempt property, which will be presented in a bill soon to be made available to the general public.

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

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

*Jail Facilities to the State* on behalf of MMA's Legislative Policy Committee. LD 1266 received a public hearing before the members of the Criminal Justice Committee on Wednesday.

As proposed in LD 1266, the property taxpayer contributions for county jail operations would be capped at roughly \$65 million, with allowances for annual inflationary adjustments. The state would be held accountable for funding the remaining costs by absorbing management responsibility over county jail operations. LD 1266 provides counties and the state three years to negotiate how best to transfer oversight responsibly and provides the flexibility necessary to allow the state and the counties to decide how best to provide correctional services on an ongoing basis.

The proponents of the bill, which included the sponsor and MMA, stressed the importance of LD 1266 as providing the means necessary to ensure that property taxpayers have a seat at the county jail operations funding table. Thus far, most of the discussions on this issue have focused on mechanisms geared toward shifting greater burden onto the property taxpayers to fund the corrections services counties are mandated by state law to provide.

A little history on this issue is warranted.

In 2009 the state froze state property tax assessments for the operation of the 15 county jails at \$62 million with promises of efficiencies and greater state financial participation through the creation of the State/County Jail Unification System. Unfortunately, for several different reasons (e.g., shortages in state funding, absence of trust among the interested parties and a general lack of commitment to the unification program, etc.), the unification program fell apart and the property taxpayer protections began to erode.

In 2015, the state took the first step in lifting the property tax cap by effectively allowing for annual increases of 3% in the property taxpayer share of county jail funding. As a result, the property taxpayer share of county jail funding is projected to increase to \$65 million in FY 2017.

Under consideration in 2017 is a bill that would further eat away at property taxpayer protections by linking increases in local support for county jails to those

calculated under the so-called "LD 1" tax levy limit. If that approach is enacted, the property taxpayer share of county jails could increase by as much as 6% annually, resulting in the tax assessment for county jails reaching \$69 million in FY 18. Ironically, the LD 1 property tax limitation system would become the agent to drive increases in property tax burden.

From the municipal perspective, LD 1266 provides an alternative to the current trend of shifting additional burdens onto the property taxpayers. Instead, the increasing costs of providing county correctional services would be borne by the state's broad based taxpayers.

Although the Criminal Justice Committee hearing room was brimming with sheriffs and other county-level law enforcement officers, only six individuals spoke in opposition to the bill. The Maine Sheriffs' Association focused its testimony on the great work sheriffs across the state do in keeping Maine residents safe and inmates on the right path. The Sheriffs' Association is concerned that shifting operational responsibilities to the state would have an adverse impact on their efforts to provide quality community-based programs.

The oppositional testimony offered by the Penobscot County administrator, Bill Collins, was on point with the message delivered by both Sen. Diamond and MMA. Mr. Collins acknowledged that all interested parties need to work collaboratively on identifying the revenue sources, other than the property taxes, necessary to appropriately capitalize the provision of county correctional services.

Members of the Criminal Justice Committee seemed interested in all of the testimony offered, with members recognizing the important role counties play in the delivery of regionally-based correctional services, as well as acknowledging the burdens this state mandate places on property taxpayers statewide. If Sen. Diamond, a member of the Committee Justice Committee, has his way, it is likely this bill will be carried over into the next session to provide the interested parties with an opportunity to develop a funding solution. The work session on LD 1266 is scheduled for Wednesday, April 26 at 1:00 p.m.

# Helping the CEOs in the Shoreland Zone

The Environment and Natural Resources Committee met Wednesday afternoon to hold public hearings on bills that propose to change the administration of Maine law regarding development within the shoreland zone. One of those bills was LD 1096, *An Act To Improve Shoreland Zoning Rules and Enforcement To Support Municipalities*, sponsored by Representative Lydia Blume of York.

LD 1096 is the result of a 2015 stakeholder process conducted by MMA at the request of the Committee to evaluate the effectiveness of shoreland zoning regulation in protecting and preserving the habitat, environment, and resources within the shoreland zone. A copy of the Shoreland Zoning Working Group final report is available on MMA's website at [www.memun.org](http://www.memun.org).

The bill incorporates two of the unanimous recommendations of the working group, while adding two additional changes.

With respect to the recommendations included in the final report, the first requires the Office of Community Development within the Department of Economic and Community Development to provide an "advanced" training course in the practice of shoreland zoning management for municipal code enforcement officers to be available in addition to the basic training course currently available. The second recommendation requires municipal shoreland zoning ordinances to establish a requirement for all applicants seeking a permit for development within the shoreland zone to provide as part of that application pre-construction photographs and, ultimately, post-construction photographs of the shoreland vegetation and development site.

The two additional changes would increase the maximum per-day civil penalty established in statute for a specific violation of a municipal land use ordinance from \$2,500 to \$5,000, while also increasing the special maximum per day penalty for a violation of a land use ordinance within a resource protection zone from \$5,000 to \$10,000.

In its testimony in support of LD 1096, the Midcoast Conservancy did much of the heavy lifting at the hearing by explain-

ing the stakeholder process and rationale for these changes. The penalties were included in the bill for their deterrent effect. The training aspect would reinstate two words repealed from statute in 2011 in an effort to ensure CEO's have access to specialized shoreland zoning instruction in an area of code enforcement for which advanced training is not offered by the state or non-governmental organizations. The purpose of the applicant photograph submission requirement is to save municipal staff time by putting the burden of depicting changes to shoreland zones on the applicant rather than the CEO. Furthermore, in the Conservancy's view the burden on applicants to produce pho-

tographs would not be entirely new given that the state Natural Resource Protection Act's permit-by-rule process, which applies to certain waterbody-related activities both within and outside the shoreland zone, already requires the submission of photographs.

MMA supported these policies. Although the bill's requirement to amend ordinances may constitute a minor mandate, to members of the Association's Policy Committee the promised savings in staff time warrant making the change.

In his testimony, Nick Adams, code enforcement officer for the communities of Poland and Chebeague, acknowledged

*(continued on page 4)*

---

## Bill Authorizes Home Rule For Food Systems

On April 10, the State and Local Government Committee heard several hours of testimony on both sides of LD 725, *An Act To Recognize Local Control Regarding Food and Water Systems*. This legislation, sponsored by Senator Troy Jackson (Aroostook Cty.), would clarify that the state must recognize ordinances that regulate local food systems, as well as the transportation of water for commercial purposes beyond the boundaries of the municipality. The term "local food system" is defined in LD 725 as "a community food system within a municipality that integrates food production, processing, consumption, direct-to-consumer exchanges and other traditional foodways to enhance the environmental, economic, social and nutritional health and well-being of the municipality and its residents."

The supporters of LD 725 believe that the freedom of citizens to control their own destinies, in this case over such basic necessities as food and water, should be within the municipal jurisdiction if their community's desire is to locally authorize and regulate producer-to-consumer food systems.

In her support of LD 725, a farmer from Quill's End Farm in Penobscot explained how farmers and food consumers drafted their town's ordinance around the kitchen

table seven years ago. She called these ordinances "good faith policy innovations" that seek to solve a problem they did not create. From her perspective, their farms and food-ways had been "administratively redefined," resulting in non-compliance with the law as a result of a regulatory regime rather than legislative act.

Without necessarily endorsing the adoption of food sovereignty ordinances, the municipal officials on MMA's Legislative Policy Committee believe this expression of home rule authority is worth supporting. At least 17 Maine towns have adopted some form of what are commonly named "Local Food and Community Self-Governance" ordinances. As governed by these ordinances, willing consumers and willing producers are able to enter into direct buyer-to-seller relationships for the purchase of locally and naturally grown, raw and unprocessed food.

With that said, MMA's support for LD 725 is conditioned upon the removal of the "water sovereignty" aspect of this bill, which water utilities believe will create a variety of issues.

To the quasi-municipal water districts and other water system representatives, the language in LD 725 will create confusion and could be detrimental to public

*(continued on page 4)*

## Bill Authorizes Home Rule For Food Systems (cont'd)

health and safety. These utilities see local ordinances overlapping the state regulatory system leading to an unnavigable regulatory environment. In the view of the utilities, local decisions regarding the transportation of municipal water resources should be made by the trustees of the water system. Poland Spring and transporters of that company's water expressed similar concerns, while testifying to the positive economic impact the company provides in Maine.

The breadth of the remainder of the opposition testimony was largely focused on public safety. In the paraphrased words of the Grocers and Food Producers Association, their opposition to the bill is in support of Maine's food producers because its members view food safety as paramount, and Maine's food inspection laws and regulations offer value and reliability. The Maine Department of Agriculture's Bureau of Agriculture, Food and Rural Resources did not see how LD 725 would do anything to advance the interests of Maine agriculture and food businesses, or the orderly regulation of water use. The Bureau questions what specific problems

the bill sought to address.

The work session on LD 725 has been scheduled for Wednesday, April 26 at 11 a.m. Given the widespread opposition to

retaining the water production language in the bill, the odds of its enactment without an amendment to remove that provision are slim.

## Helping the CEOs in the Shoreland Zone (cont'd)

the reluctance of judges to enforce the minimum daily fines in statute and therefore suggested an alternative to the increase in penalties. In his view, the law might work better if it requires rather than authorizes the assessments. Mr. Adams also responded to questions regarding the adequacy of current training, acknowledging that CEO's are required to enforce so many standards that most cannot be expert in all aspects. While there certainly are officers with "advanced" expertise in shoreland zoning, there appears to be a need for more, especially given turnover in the field.

The Maine Association of Realtors testified in opposition to the fine increases, while supporting the training and photograph aspects of this legislation.

The Maine Department of Economic and Community Development, through

the Office of Community Development's CEO Training Coordinator, testified "neither for nor against" LD 1096. The coordinator explained that CEO's are required to be trained in 13 different areas and that one of those areas, the building code, contains an additional seven areas itself. Because the coordinator is the only person employed by the state to manage the training program for the CEOs in these topic areas, the Department testified that another person would need to be hired at a salary of roughly \$44,000, estimating the cost of this new training requirement to approach nearly \$70,000 in total. In the coordinator's view, the current training offerings are sufficient and advanced training already occurs organically in class when questions arise. The work session on LD 1096 is scheduled for Monday, April 24 at 11:00 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 24

#### Health & Human Services

**Room 209, Cross State Office Building, 12:00 p.m.**

**Tel: 287-1317**

LD 33 – An Act To Adjust the Lifetime Limit for the Receipt of TANF Benefits.

LD 1017 – An Act To Strengthen Work Participation in the Temporary Assistance for Needy Families Program.

LD 1052 – An Act To Allow Drug Testing Prior to Providing Welfare Benefits.

LD 1302 – An Act To Increase Workforce Participation in the Temporary Assistance for Needy Families Program and Other Assistance Programs.

#### State & Local Government

**Room 214, Cross State Office Building, 10:00 a.m.**

**Tel: 287-1330**

LD 105 – An Act To Create a Centralized Authority To Combat Opiate Addiction in Maine.

LD 1153 – An Act To Establish a Village Corporation.

LD 1346 – An Act To Clarify Access to Landlocked Ancient and Family Burying Grounds and To Clarify the Definition of Ancient Burying Ground.

LD 1381 – An Act To Clarify Appeals of Municipal Land Use Decisions.

#### Veterans & Legal Affairs

**Room 437, State House, 10:00 a.m.**

**Tel: 287-1310**

LD 1383 – Resolution, Proposing an Amendment to the Constitution of Maine Regarding Early Voting.

LD 1441 – An Act to Create Veteran-friendly Workplaces.

### Tuesday, April 25

#### Agriculture, Conservation & Forestry

**Room 214, Cross State Office Building, 1:15 p.m.**

**Tel: 287-1312**

LD 1369 – An Act To Support Local Agricultural Production.

#### Education & Cultural Affairs

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

**Tel: 287-3125**

LD 1319 – An Act To Ensure Federal Title I Funding Is Directed to Classroom Learning.

LD 1371 – An Act To Address Costs for Certain Special Education Students.

#### Judiciary

**Room 438, State House, 3:00 p.m.**

**Tel: 287-1327**

*(continued on page 5)*

## LEGISLATIVE HEARINGS (cont.)

LD 1432 – An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Advance Payment of Costs for Public Records Requests.

### **Taxation**

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

**Tel: 287-1552**

LD 1078 – An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2017-18.

LD 1289 – An Act To Allow Voluntary Payments in Lieu of Taxes in the Unorganized Territory.

### **Transportation**

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

**Tel: 287-4148**

LD 1403 – An Act Regarding Drug Testing in the Transportation Sector.

## *Wednesday, April 26*

### **Criminal Justice & Public Safety**

**Rm. 436, State House, 9:00 a.m.**

**Tel: 287-1122**

LD 1333 – An Act To Enact the Drug Trafficking Offender Registration and Notification Act.

### **Education & Cultural Affairs**

**Room 202, Cross State Office Building, 9:00 a.m.**

**Tel: 287-3125**

LD 1080 – An Act To Prevent Economic Hardship in Maine School Administrative District 44.

### **1:00 p.m.**

LD 1334 – An Act To Authorize the Town of Atkinson To Withdraw from School Administrative District No. 41.

LD 1336 – An Act To Amend the Laws Governing the Process for a Single Municipality To Withdraw from a Regional School Unit.

### **Energy, Utilities & Technology**

**Room 211, Cross State Office Building, 10:30 a.m.**

**Tel: 287-4143**

LD 1372 – An Act To Increase Broadband Access for Rural Communities.

LD 1399 – An Act To Encourage Broadband Coverage in Rural Maine.

LD 1472 – An Act To Lower the Costs of Broadband Service by Coordinating the Installation of Broadband Infrastructure.

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

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

**Tel: 287-1331**

LD 1343 – An Act To Promote Downtown Revitalization by Creating the Locating Businesses Downtown Loan Program.

LD 1353 – An Act To Establish the Maine Domestic Trade Center.

LD 1478 – An Act To Provide Support for Sustainable Economic Development in Rural Maine.

LD 1392 – An Act To Allow Municipalities To Opt Not To Enforce the Maine Uniform Building and Energy Code.

### **State & Local Government**

**Room 214, Cross State Office Building, 9:00 a.m.**

**Tel: 287-1330**

LD 1382 – An Act To Require Responsible Contracting on Public Construction Projects.

LD 1459 – An Act To Protect the Public from Dangerous Buildings.

LD 1484 – An Act Authorizing the Deorganization of the Town of Atkinson.

### **Taxation**

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

**Tel: 287-1552**

LD 1172 – An Act To Repeal the Maine Personal Property Tax.

LD 1195 – An Act To Allow Municipalities To Opt Out of the Collection and Assessment of Personal Property Taxes.

LD 1270 – An Act To Allow Municipalities To Include Itemized Fees on Property Tax Bills.

LD 1479 – An Act To Modernize and Improve Maine's Property Tax System.

## *Thursday, April 27*

### **Agriculture, Conservation & Forestry**

**Room 214, Cross State Office Building, 1:00 p.m.**

**Tel: 287-1312**

LD 1181 – An Act To Provide Funding to Municipalities Severely Infested by Brown-tail Moth Caterpillars.

### **Energy, Utilities & Technology**

**Room 211, Cross State Office Building, 2:00 p.m.**

**Tel: 287-4143**

LD 1124 – An Act To Promote the Development of Solar Energy in Maine.

LD 1444 – An Act Regarding Large-scale Community Solar Procurement.

### **Environment & Natural Resources**

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

**Tel: 287-4149**

LD 1235 – An Act Concerning Pavement Sealing Products.

LD 1298 – An Act To Update Maine's Water Quality Standards.

### **Health & Human Services**

**Room 209, Cross State Office Building, 1:00 p.m.**

**Tel: 287-1317**

LD 480 – An Act To Prioritize Access by Maine's Most Vulnerable Citizens to Welfare Resources.

LD 886 – An Act To Require That Maine Welfare Benefits Be Used in Maine.

### **Judiciary**

**Room 438, State House, 1:00 p.m.**

**Tel: 287-1327**

LD 195 – An Act Amending the So-called "Good Samaritan" Laws.

LD 280 – An Act To Include Tax-exempt, Nonprofit Regional Transportation Providers under the Maine Tort Claims Act.

LD 815 – An Act To Allow a Council of Governments To Provide Municipal Services to Small Towns under the Maine Tort Claims Act.

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

**Room 208, Cross State Office Building, 1:00 p.m.**

**Tel: 287-1331**

LD 1340 – An Act To Amend the Laws Governing the Maine State Housing Authority.

*(continued on page 6)*

## LEGISLATIVE HEARINGS (cont.)

### Taxation

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

Tel: 287-1552

LD 708 – An Act To Use Taxes on Nonmedical Marijuana and Increase the Tax on Cigarettes To Partially Offset the 3% Income Tax Surcharge.

LD 959 – An Act To Expand Property Tax Relief for Maine Residents.

LD 1461 – An Act To Encourage the Construction of Affordable Housing.

### Friday, April 28

### Health & Human Services

Room 209, Cross State Office Building, 9:00 a.m.

Tel: 287-1317

LD 107 – An Act To Increase the Effectiveness of Opioid Addiction Therapy.

LD 565 – An Act To Address Maine’s Opiate Addiction Crisis.

LD 1326 – An Act To Reduce Morbidity and Mortality Related to Opioid Misuse.

LD 634 – An Act Regarding the Drug Epidemic in Maine.

### Transportation

Room 126, State House, 9:00 a.m.

Tel: 287-4148

LD 1328 – An Act To Promote Bicycle Safety by Placing Warning Signs on Certain Public Ways.

LD 1351 – An Act Regarding the Length of Time a Temporary Sign May Be Placed in a Public Way.

LD 1395 – Resolve, To Name the Bridge over the Androscoggin River between the Towns of Peru and Mexico the Buddy Wendall McLain Bridge.

LD 1400 – An Act To Create the Bar Harbor Port Authority.

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

### Energy, Utilities & Technology

LD 1444 – An Act Regarding Large-scale Community Solar Procurement. (Sponsored by Sen. Woodsome of York; additional cosponsors.)

This bill directs the Public Utilities Commission to enter into long-term contracts with a duration of 20 years for the procurement of 120 megawatts of “large-scale community solar distributed generation resources” by 2022, beginning with a solicitation for 30 megawatts of output by March 1, 2018. The bill defines such resources as electric generating facilities that use renewable solar fuel or technology with a nameplate capacity of up to 5 megawatts or other limit as determined by the Public Utilities Commission. Of the many specific parameters established to govern the procurement process, the most directly relevant to municipalities is a provision which allows municipalities to subscribe to up to 70% of the entire resource.

LD 1472 – An Act To Lower the Costs of Broadband Service by Coordinating the Installation of Broadband Infrastructure. (Sponsored by Rep. McLean of Gorham.)

This bill requires the installation of broadband conduit during all roadway-related construction projects that are financed in whole or in part with federal, state or local funding and that construct new or replace existing water or sewer lines in a public road right of way, construct a new highway or road, or construct or relocate an additional lane or shoulder for an existing highway or public road. The public entity responsible for the construction is authorized by the bill to lease the broadband conduit at a cost-based rate to providers to install fiber-optic or other cables that support broadband and wireless facilities for broadband service.

### Labor, Commerce, Research & Economic Development

LD 1377 – An Act To Prohibit Posing as a Governmental Entity in Commerce. (Sponsored by Rep. Dunphy of Old Town; additional cosponsors.)

This bill makes it a violation of the Maine Unfair Trade Practices Act for a person to represent him or herself as a representative of a government or governmental agency or otherwise distribute documentation that is represented as official governmental documentation if those representations are false. The bill also requires a notice to be placed on

every offer of the sale of a governmental document that can be obtained from the applicable governmental entity for free or at a lesser charge informing the consumer and providing the contact information of the governmental entity.

### Marijuana Legalization Implementation

LD 1491 – An Act To Provide for Safety, Quality and Transparency in the Retail Marijuana Industry. (Sponsored by Sen. Katz of Kennebec Cty; additional cosponsors.)

This bill amends the laws regarding the sale and distribution of marijuana for adult use and medical purposes primarily for the purpose of allowing medical marijuana dispensaries to begin selling “limited (recreational) marijuana retail products” (a maximum of ¼ ounce of retail marijuana) before the entire recreational marijuana regulatory system is put in place in 2018. In addition to establishing financial qualifications on applicants for retail marijuana establishments and retail marijuana social clubs, imposing annual financial audit responsibilities on all recreational marijuana facility license holders, and making several other changes to the initiated law regarding residency requirements for license holders, the bill: (1) transfers the state licensing authority from the Department of Agriculture, Conservation and Forestry to the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations; (2) establishes the special authority of the dispensaries to sell “limited marijuana retail products”; (3) repeals that special authority as of December 31, 2018 unless the Bureau has not begun issuing licenses for retail marijuana establishments at that time; (4) allows registered dispensaries to purchase marijuana and marijuana products from registered primary caregivers for purposes of retail sale of recreational marijuana; (5) imposes a special tax of 10% of the sale price of limited marijuana retail products, which is levied in addition to the 5.5% general sales tax; and (6) allocates the revenue generated by the special 10% tax on limited marijuana retail products as follows: 10% to the municipality where the tax-paying dispensary is located, 45% to the Department of Health and Human Services to fund regulatory oversight and enforcement of sales of limited marijuana retail products and 45% to the Bureau to fund administration, regulatory development and enforcement of the Marijuana Legalization Act.

(continued on page 7)

### Taxation

LD 1479 – An Act To Modernize and Improve Maine’s Property Tax System. (Sponsored by Rep. Stanley of Medway; additional cosponsors.)

This bill makes several substantial changes to the law governing the taxation of industrial property and the system of appealing the assessment of industrial property. Specifically, the bill: (1) changes the make-up of the Board of Property Tax Review by eliminating the “engineer” category of Board member and replacing it with “representatives of business and industry who are experienced in taxation, finance or valuation”, and further providing that the “public member” category of board member cannot be an assessor, former assessor, municipal official or former municipal official; (2) establishes Maine Revenue Services as the primary assessor for any industrial facility”, which is defined as a manufacturing facility with a value exceeding \$10 million, and requires the municipal assessor of the jurisdiction where the industrial property is located to use the MRS-calculated value; (3) substantially amends the section of assessing law authorizing assessors to seek and obtain information from taxpayers (Section 706) by: (a) repealing the provision that bars taxpayers who do not provide the requested information of the right of appeal, and (b) limiting to no more than 30 the number of document requests or interrogatories that can be asked of the taxpayer; (4) repeals the requirement that appeals of abatement requests regarding property with a value over \$1 million go the Board of Property Tax Review and allows those appeals to go directly to Superior Court; (5) allows taxpayers appealing an assessment over \$1 million to waive participation in the local board of assessment review process and, instead, appeal directly to the Board of Property Tax Review or Superior Court; (6) establishes that a tax appeal before the Board of Property Tax Review or Superior Court is a “de novo” process rather than an appeal from the established record; and (7) establishes the route of appeal from a decision of the Board of Property Tax Review to go directly to the Maine Supreme Judicial Court, bypassing the Superior Court.

### Transportation

LD 1403 – An Act Regarding Drug Testing in the Transportation Sector. (Sponsored by Sen. Jackson of Aroostook Cty.)

This bill requires all persons employed as flaggers on road construction projects, whether publicly or privately employed, to submit to substance abuse testing, which may be either randomly administered or when subject to probable cause. The bill also directs the Department of Transportation to adopt rules to implement the testing program for all flaggers based on existing state policy regarding employee substance abuse testing.

LD 1440 – An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2018 and June 30, 2019. (Emergency) (Governor’s Bill) (Sponsored by Rep. McLean of Gorham; additional cosponsors.)

This bill is the Governor’s proposed biennial Highway Fund budget for FY 2018-2019. Among the various allocations, transfers and policy changes, the bill changes the allocation of Highway Fund resources for the Bureau of the State Police from 35% Highway Fund and 65% General Fund to 100% from the General Fund. That change frees-up an additional \$20 million each year of the biennium for DOT highway and bridge maintenance and construction projects, while placing an equivalent additional burden on the General Fund. Because the Local Road Assistance Program (LRAP), as a matter of statute, is funded with 9% of the total Highway Fund allocation to the DOT, the increase in the DOT allocation related to the proposed policy change regarding State Police funding translates to a 10% increase to the local road program. The LRAP budget is just short of \$21 million for the current fiscal year but in the proposed budget is slated to be just over \$23 million for the upcoming fiscal year, beginning on July 1.