

Senior Tax Lien Bill Decided

Committee vote split three ways

On Tuesday the Taxation Committee held a work session on LD 1629, *An Act To Protect the Elderly from Tax Lien Foreclosures*. The bill, sponsored by Rep. Ellie Espling of New Gloucester on behalf of Governor LePage, was first referred to the committee on June 5, 2017, carried over into the second session on Aug. 8, 2017, received a public hearing on Jan. 25, and work sessions on Feb. 6, 20, and 27.

At the third and final work session on LD 1629, a representative from the Governor's Office provided the committee with an amended version of the bill. Although the amendment reduces the four page bill to four paragraphs, the provisions of the amendment nevertheless shift administrative burdens onto municipalities, some more burdensome than others, and provide certain property taxpayers special treatment under the pre and post foreclosure processes.

With respect to the pre-foreclosure process, the change proposed by the governor requires municipal treasurers to notify a homeowner when a tax lien certificate is filed with the registry of deeds, and in that notice inform the delinquent taxpayer of the right to apply for a poverty tax abatement and the right to seek assistance from the state Bureau of Consumer Credit Protection.

The proposed amendment to the post-foreclosure process impacts municipalities that elect to sell property previously owned by taxpayers 65 years of age or older who were receiving a homestead exemption. In this situation, if a municipality decides to sell the property, the home must be sold by a licensed broker at fair market value, or the price at which the property is anticipated by the licensed broker to sell within 90 days. The proceeds from the

sale, in excess of the taxes owed, interest, fees and other expenses incurred by the municipality, including real estate broker fees, must be returned to the former owner.

During the work session MMA was asked to provide feedback on the amendment and reported that while municipal officials can support the pre-foreclosure

notice requirements advanced in the governor's amendment, they do not support the provision requiring municipal officials to use a single "one size fits all" process for disposing of tax acquired property. Under existing statutes municipalities already have the authority to adopt ordi-

(continued on page 2)

Municipal Consolidation

Bill Seeks Pre-Approval of Joint Charter Commissions

Last fall, voters in Auburn and Lewiston rejected a merger proposed for their cities by 84 and 66 percent, respectively.

Concern that another consolidation petition could begin the debate all over again led Sen. Eric Brakey of Androscoggin County to introduce LD 1840, *An Act To Revise the Municipal Consolidation Referendum Process*. The bill would require referendum approval to form a joint charter commission based on a citizen petition, but retain existing law allowing a majority of each community's municipal officers to form a commission without going to referendum. Under Sen. Brakey's proposal, following the failure of a referendum to approve a merger, as was the case in his district last year, a referendum to create a new charter commission could not be required by petition within 10 years' time without 30 percent of the voters making the request. Current law requires only 10 percent of the voters to validate the petition, or 1,000 voters in municipalities with over 10,000 residents.

The bill received its public hearing on Wednesday before the State and Lo-

cal Government Committee, receiving no opposition testimony. According to Sen. Brakey, it makes sense to determine whether or not residents of each municipality are interested in consolidation before going down the road to form a joint charter commission.

Speaking in support, Auburn Mayor Jason Levesque testified that uncertainty surrounding the merger effort with Lewiston stymied economic growth in each community for nearly three years. According to his testimony, some businesses likely decided not to locate in Auburn due to a lack of predictability and regulatory consistency. Questions regarding anticipated tax rates, rules and regulation remain even after the vote, and in the mayor's view it is time to eliminate the uncertainty by enacting LD 1840. Mayor Levesque took no position on the merits of mergers per se, noting they all depend on the situation, and reported a silver lining of the Auburn/Lewiston experiment is that each city is working hard to show New England the strengths of their community.

(continued on page 2)

Senior Tax Lien Bill (cont'd)

nances and policies that dictate how the property will be disposed of (e.g., sealed bid, auction, real estate broker, etc.) and if they so elect, can return excess sales revenue to the previous owner. Municipal officials believe that local decision makers are better suited to determine what works best in their communities.

After much discussion and a short break for partisan caucuses, the committee voted to support three different reports.

The majority “ought to pass as amended” report on LD 1629, supported by eight members of the committee, replaces the printed bill, amends the bill’s title to *An Act To Protect Homeowners from Tax Lien Foreclosures*, with some wordsmithing, adopts the municipal pre-foreclosure notice requirement provisions proposed in the governor’s amendment, and applies the pre-foreclosure requirements to the state with respect to tax acquired property in the unorganized territory.

The minority “ought to pass as amended” report, supported by four members of the committee, replaces the printed bill with the notice provisions and the procedures for selling tax acquired property previously owned by senior homeowners presented in the governor’s amendment.

One member of the committee voted “ought not to pass” on LD 1629.

Once the language for the two “ought to pass as amended” reports is finalized, the entire Legislature will have the opportunity to discuss and decide which of the three recommendations offered by the committee to advance to the governor for his signature or veto. MMA thanks the many municipal officials who participated in the public hearing, attended the work sessions and contacted their legislators about this bill. Your outreach was paramount to MMA’s advocacy efforts.

Correction: In the LD 1629 related article printed in the Jan. 26 edition of the Legislative Bulletin, MMA incorrectly reported that the Town of Morrill has a trust fund program available to help qualifying residents meet their property tax obligations. The intent of the testimony offered by Morrill Tax Collector, Roger Rowlands, was to underscore the many avenues municipalities take to ensure all homeowners are able to remain in their homes.

Municipal Consolidation (cont'd)

The Mayors’ Coalition on Jobs and Economic Development supported the bill as a sensible update to a statute which has not been amended since 1989. The Coalition also supported a provision in the bill extending from three to ten years the interim period where a small percentage of voters could petition for a joint charter commission. In their view, this change would “prevent a spirited minority from constantly pushing the consolidation discussion.”

MMA testified neither for nor against the proposal on behalf of its Legislative Policy Committee. The Policy Committee generally viewed the new require-

ment for a referendum between receipt of a valid petition and before the forming of a charter commission as reasonable. Some members did question whether the additional requirement of a decade-long interim period is too lengthy, and the association recommended shortening that period somewhat. The association also suggested an amendment to existing law that would allow municipalities with over 10,000 residents to establish by charter a minimum petition threshold of greater than 1,000 voters.

The committee work session on LD 1840 has been scheduled for Wednesday, Mar. 7 at 9:30 a.m.

Burn Permits Blaze through ACF Committee

On Tuesday, the Agriculture, Conservation and Forestry Committee met to hold a work session on LD 1809, *An Act to Amend the Laws Governing the Issuance of Burn Permits*. As detailed in an article published in the Feb. 9 edition of the *Legislative Bulletin*, LD 1809 would authorize municipalities to use state approved third-party software for the purpose of issuing burn permits electronically.

The two current third-party software providers, Warden’s Report and Burning Permit, offer tailored services allowing permits, including campfire and firework permits, to be issued according to standards established in a municipality’s ordinance. In addition, municipal users are able to create a list of the public officials and dispatch services in the region designated to receive a text or email when a permit is issued, resulting in a reduction in the number of emergency responses for smoke investigations. The third-party systems retain existing “in person applicant” safety features allowing local fire wardens to prevent online permit issuance when local weather conditions are different than statewide classification. The state’s online system only uses the National Fire Danger Rating System “class day” designation as a

safety guideline.

After discussing changes proposed by the bill’s sponsor, Sen. Tom Saviello of Franklin County, the committee voted unanimously “ought to pass as amended” on LD 1809.

The committee’s amendment (1) requires the developer to have the system approved by Maine Fire Service prior to making the software available to municipalities; (2) prevents fees from being imposed on an applicant utilizing an online system to obtain a burn permit, including the state system; (3) prohibits third-party providers from charging municipalities a fee for utilizing the burn permit software; (4) limits the number of developers that can provide the burn permit issuance software to the two third-party systems currently in use by municipalities; and (5) updates the burn permit statutes to allow applicants to display proof of a permit on their electronic devices, rather than having to produce a paper copy of the permit.

The committee’s amendment also clarifies that burn permit applicants are not required to use an online system and may still apply for a permit from the local fire warden. The state burn permit system also remains as an available permitting option.

Election Law – Housekeeping, and Then Some

Committee Splits On New Polling Place Activity Restrictions

At a work session on Wednesday, the Veterans and Legal Affairs Committee split by a vote of 7 to 6 on LD 1726, *An Act To Amend the Laws Governing Elections*, submitted by Rep. Louis Luchini of Ellsworth on behalf of the Secretary of State. Generally regarded as an annual “housekeeping” bill, this year’s version included some provisions that sparked disagreement, ultimately leading to a split vote.

Specifically, Section 13 in the bill repeals the provision of state law allowing for the collection of signatures at the polling place. The bill also repeals and replaces the section of law prohibiting political activities within the polling place. As proposed, political activities would be prohibited within the building where the registrar’s office is located when open, as well as from the voting place, public property within 50 feet of each entrance to the voting place and a 50 foot-wide pathway from the location of voter parking or drop-off areas to each voting entrance.

Prohibited activities would include: (1) influencing another person’s decision regarding a candidate or question on the ballot; (2) displaying or distributing advertising materials, unless those materials are affixed on automobiles traveling to and from the voting place for the purpose of voting or a campaign button to the polling place that does not exceed three inches, or from wearing clothing that displays campaign material; (3) conducting exit polls related to a party, candidate or question that is on the ballot for the election

that day; and (4) activities not related to the election, including collecting signatures for a candidate or direct initiative, displaying or distributing advertising or information related to candidates or issues, or conducting charitable or other nonelection-related activities. Candidates for any office that is on the ballot for the election that day would be able to attend the voting place and orally communicate with voters only if they were to do so outside the designated zone.

At the public hearing on Jan. 3, these prohibition and setback proposals provoked the ire of dozens of parties interested in preserving the right of candidates and referendum petitioners to conduct their activities at polling places on the day of the election. MMA testified against the specific terms of the new prohibition out of concern that, as drafted, it would not allow municipal election clerks the flexibility they need to exercise discretion at the various and unique polling places throughout our state. There was a specific concern that the setbacks established could lead to unintended consequences, such as pushing people into roadside areas with significant traffic, thereby creating safety and congestion issues. Municipal officials generally support affording discretion to local election administrators to direct non-voting activities at the polling place.

The opponents’ concerns led to the majority committee report removing these polling place restriction provisions.

Several proponents testified, however, that an expansion of polling place activities is leading to crowding and noise which is putting a chilling effect on citizens’ desire to vote. That testimony, and some legislators’ personal experiences, led to a minority committee report that will include new restrictive language which: (1) requires advance notification of a candidate’s polling place presence on election day, or one surrogate of the candidate; (2) limits petitioners to two per petition at each polling place and a maximum of five petitions total; (3) exempts municipalities from having to provide tables or chairs to petitioners;

(4) requires all petitioners to be located outside the building unless there is a suitable location inside the building but out of the sight of the polling place (i.e. a separate room); (5) requires training for petition gatherers regarding the state laws at the polling place; and (6) requires that both sides of a petition issue be given space to petition if requested.

Either way, several other provisions in the bill should be enacted. Among the various genuine housekeeping items proposed is an amendment, forth by MMA seeking to update several provisions in law that should have been amended when the Legislature changed the statutory timeframe for filing nomination papers from 45 days to 60 days last year. Other 45 day deadlines in statute connected to the nomination papers – such as the timeframe for a candidate to withdraw – would benefit from this change.

Each of the two committee reports will include the 45-to-60 day amendments, as well as changes that: (1) reduce from one year to six months the period of time the incoming voting list must be kept in the registrar of voters’ office; (2) require that test ballots and documentation of pre-election testing tabulating or accessible voting devices be kept for six months; and (3) clarify that the appeal of a decision of the registrar of voters to cancel a person’s registration or to reject a person’s voter registration application must be filed within 30 days after receipt of notice of the registrar’s decision.

These types of amendments should be unanimously enacted in order to provide clear guidance to election clerks and help ensure a smooth election process. Unfortunately, because the two reports were divided largely along party lines, many are predicting the House and Senate will favor differing committee reports, causing neither of them to be enacted.

The association is hopeful that if the two bodies are unable to agree on one of the committee reports, they will be able to meet in the middle to find common ground on the non-controversial elements and enact those before the end of session and the June primary election.

Legislative Bulletin

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Committee Splits On Approach To E911 Costs

Last year, the Energy, Utilities, and Technology Committee voted unanimously against passing LD 342, *An Act To Reduce the E911 Surcharge*. This year, the Public Utilities Commission (PUC) submitted LD 1671, *An Act To Authorize the Public Utilities Commission To Determine the Amount of the E911 Surcharge*. Rather than lowering the existing surcharge in statute, as proposed in LD 342, LD 1671 would let the PUC set the surcharge amount.

Different session, same story. The PUC claims it has a surplus of revenue that it is not legally authorized to share with local dispatch centers, while municipalities are digging deep into their pockets to find the revenue needed to comply with the variety of mandates the state has imposed on emergency response systems.

At the public hearing on LD 1671 held on Jan. 9, the PUC was the sole proponent of the legislation, in addition to the bill's sponsor, Sen. David Woodsome of York County. The Telecommunications Association of Maine and the Governor's Energy Office testified neither for nor against, suggesting technical edits to the bill.

MMA submitted testimony encouraging the committee to research how these E911 funds are used by the PUC's Emergency Services Communication Bureau. The state has adopted standardized quality assurance, software, and training protocols that govern the dispatch of fire and medical-related 911 calls, and the aspects of these protocols which are not reimbursed by the Commission's Bureau are passed on at a cost to local taxpayers.

In a joint letter to the committee, the cities of Auburn and Lewiston explained their need to invest an estimated \$6 million dollars in their dispatch center's telecommunications infrastructure. With budgets tight, making an investment of that magnitude will require delaying or even eliminating other important public infrastructure projects. Because of the two cities' belief that the actions taken by the state and the PUC have increased the fiscal burden of emergency dispatch, they urged the state

to step forward and assist in offsetting the unfunded mandates it has enacted, especially if the current surcharge is producing revenues over and above those needed to support the system at the state level.

At its Thursday work session on the bill, the committee chose two different paths, splitting along party lines in a 7-5 vote.

The majority report will dispose of the bill, and instead include a letter from legislators to the PUC encouraging them to work with stakeholders on a comprehensive analysis and proposal

for the next Legislature. The PUC would be asked to assess training, budgets, and applicable statutory authorizations or restraints. The request is based on reports that dispatches have been asking for training assistance from the Bureau for two years without answer.

The minority report would allow the PUC to lower the existing surcharge from 45 to 40 cents, while also creating a new grant program with \$1 million of the surplus to encourage the remaining local emergency dispatches to renew efforts to combine into new or existing

(continued on page 6)

New Leash on Life for Dangerous Dogs

Last spring LD 858, *An Act to Strengthen the Law Regarding Dangerous Dogs*, was presented by Rep. Catherine Nadeau of Winslow to the Agriculture, Conservation and Forestry Committee. The purpose of the bill was to provide animal control and law enforcement officers with additional tools to deal with dangerous dogs. Presented on behalf of her constituent, Rep. Nadeau drew attention to a tragic incident involving the citizen's beloved pet and another person's poorly controlled dog.

As originally drafted, the bill would have required municipalities to fund and manage so-called "dangerous dog" impoundment facilities.

Twelve animal welfare organizations, municipal representatives, and Maine Municipal Association submitted testimony in opposition to the bill, sharing concerns that the proposal would shift the cost of managing dangerous dogs from pet owners to local property taxpayers. Some opponents of the bill described the original proposal as creating an expensive, inhumane solution to what is a negligent owner's problem.

On Tuesday, the committee held a work session to discuss an amendment to LD 858 offered by Liam Hughes, the Department of Agriculture, Conservation and Forestry's Animal Welfare Director.

The department's proposal amends the definition of a "dangerous dog" and creates a new definition for a "nuisance dog" in state statute in an effort to make the distinction between behaviors that can be interpreted as less serious in nature from more serious and threatening behaviors, thereby avoiding euthanasia as the required outcome for a poorly controlled dog. Additionally, a dog that inflicts serious bodily injury on an individual who is committing a crime against an individual, or property owned by the dog's owner or keeper, does not qualify as a "dangerous dog" under the terms of the proposed amendment. However, the department's proposed change strictly prohibits the training of a dog or to attack individuals or domesticated animals, unless that dog is involved with a recognized protection training program such as one offered by a law enforcement organization.

The amendment includes an increase in the dog licensing fees and the portion retained by municipalities to be used specifically to support animal welfare. The fee to license a court designated "dangerous dog" increases from the standard \$11 to \$100. Ninety-eight dollars of the licensing fee goes to the municipality's designated animal welfare fund, while

(continued on page 5)

New Leash on Life for Dangerous Dogs (cont'd)

\$1 is retained by the municipal clerk as a recording fee, and \$1 is sent to the state's animal welfare fund. The cost of licensing a court designated "nuisance dog" increases to \$30, with \$1 retained as a recording fee, \$28 deposited in the municipality's animal welfare fund and remaining dollar remitted to the state.

Owners of court designated "dangerous" and "nuisance" dogs will have to comply with a number of court ordered standards to continue ownership of the animal, including the responsibility to inform the municipality when ownership has been transferred or the dog has died. Additional remedies available to the court include mandatory restraint and control measures, required participation in approved dog training courses, muzzle, micro-chipping, signage requirements, and increased insurance coverage. A dog owner's failure to comply with a court directive could result in the assessment of additional fines, a Class D criminal violation, and permanent prohibition from owning or having a dog.

The amendment mandates municipalities to annually report to the state all dog related complaints received and responded to by animal control officers, law enforcement officers, and town officials, and the outcome of each investigation. For this reason, the amended version of LD 858 also includes a mandate preamble requiring the Legislature to either fund 90% of the increased municipal costs or to vote to override the funding requirement by a two-thirds majority vote of the members in the House and Senate.

Following the discussion, the committee voted unanimously "ought to pass as amended" on LD 858.

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/>.

Wednesday, March 7

**Education & Cultural Affairs
Room 202, Cross State Office Building, 9:00 a.m.
Tel: 287-3125**

LD 1845 – An Act To Provide Incentives To Attract Trained Firefighters to Maine and To Retain Trained Firefighters by Expanding the Provisions of Live Fire Service Training.

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.)

Agriculture, Conservation & Forestry

LD 1853 – An Act To Ensure the Safe and Consistent Regulation of Pesticides throughout the State by Providing Exemptions to Municipal Ordinances That Regulate Pesticides. (Governor's Bill) (Sponsored by Sen. Saviello of Franklin County)

This bill would preempt municipal regulation of pesticide use in certain circumstances. Specifically, the bill provides that municipal ordinances that regulate the use of pesticides do not apply to commercial applicators and spray contracting firms and to private applicators that are producing agricultural or horticultural commodities.

Veterans & Legal Affairs

LD 1846 – An Act To Require the Provision of Photographic Identification by Voters. (Governor's Bill) (Sponsored by Rep. Farrin of Norridgewock.)

This bill requires that a voter provide photographic identification for the purpose of voting. The bill specifies the types of photographic identification that may be used to verify the identity of a voter. It provides that a person who does not present photographic identification may cast a provisional ballot and establishes the process for provisional voting. Under this process, if the person can verify the person's identity to the municipal clerk, deputy clerk or warden or an election clerk within 3 business days after the election by presenting acceptable photographic identification, the ballot will be cast as a regular ballot. Through the general election of 2018, a person who does not present acceptable photographic identification but is known to a municipal clerk, registrar or election official at the voting place may cast a regular ballot upon submission of an affidavit by the municipal clerk, registrar or election official attesting to the person's identity. The bill requires that provisional ballots must be retained in tamper-proof containers separately from provisional ballot affidavits and the provisional ballot log and that rejected provisional ballots, provisional ballot logs and provisional ballot affidavits must be retained in the same manner as regular ballots and election materials. Finally, the bill requires the Secretary of State to provide, without a fee, nondriver identification cards to eligible persons who do not have another form of acceptable photographic identification to verify identity for the purpose of voting.

Committee Splits On Approach To E911 Costs (cont'd)

regional Public Safety Answering Points (PSAPs).

According to the bureau's director, in 2005 the Legislature directed the state's 48 dispatch centers that existed at the time to consolidate, aiming for a goal of between 16 and 24 centers or PSAPs, but that effort was not adequately funded. Today, there are 26 PSAPs and 10 dispatch centers, and the bureau's surplus was said to be \$5.8 million in July of 2017.

The bureau views its statutory authority as extending to the PSAPs, as well as training for dispatch staff, but not to the state-mandated quality assurance protocols and software integration needs at the local dispatch level. For 20 years, the fund has reportedly been aimed at PSAP needs and not those of dispatch centers. The director believes taking on the dispatch mandates, too, would be a huge undertaking,

over time requiring more revenue than the surplus that the existing 45 cent surcharge is able to support.

For now, those costs are falling on local property taxes, even though the surcharge has yielded a surplus to the state. Committee member Rep. Tina Riley of Jay put the local need in the context of her district's towns' painful cuts to the bone as local dollars get stretched more and more thin. According to Rep. Riley, it would be most helpful for the state to help defray the costs of what has become an unfunded mandate.

Regardless of the outcome of LD 1671, the bureau explained it would welcome more input from dispatch and PSAP staff regarding their needs as it develops its next budget this coming summer.