

## Home Rule Preemption for Short Term Rentals

On Wednesday, the State and Local Government Committee hosted a public hearing on LD 209, *An Act To Prohibit Municipalities from Prohibiting Short-term Rentals*, which is the term used to describe rentals purchased online from residential property owners rather than hotels, motels, ordinary bed and breakfasts, and the like. Companies like Airbnb and HomeAway are the lodging equivalent of the transportation services provided by Uber and Lyft in the 21<sup>st</sup> Century “sharing economy.”

As drafted, the bill would put the following sentence into law: “Except for narrowly tailored regulation to protect the public health and safety, a municipality may not prohibit or restrict the use of a short-term rental.”

For every proponent of LD 209, seven stood to oppose the legislation.

Ten of the 15 who spoke in opposition to LD 209 are residents of South Portland, which recently spent over a year drafting and refining their regulatory approach.

South Portland Mayor Claude Morgan presented a letter authored in conjunction with Portland Mayor Ethan Strimling describing the careful and lawful deliberative process their respective cities exercised before adopting regulations. That process, Mayor Morgan testified, included dozens of public hearings held over more than a year before settling on ordinances that reflect the compromises made by all of the interested parties. In the experience of these two cities, and others worldwide, the short-term rental industry puts “unique and complex pressures on neighborhoods and communities” that cry out for regulation. To the mayors, the fact that each of these neighboring

municipalities arrived at different regulatory approaches is evidence of the fact that one size does not fit all.

One of South Portland’s legislators, Rep. Lois Galgay Reckitt, pointed out how this matter, regardless of “one’s opinion on the issue of short-term rentals – is clearly one of local control.” She argued that citizens have the right to weigh their differing perspectives on local issues like this and collectively choose which approach makes the most sense.

One by one, residents of South Portland followed to share stories of how homes on their blocks are being bought up by prospectors and companies from out of state for commercial, not residential use, altering the nature of their neighborhoods. The testimony provided underscored the importance of entrusting residents with the authority to adopt regulations necessary to build

stable, year-round environments that nurture the community’s children, support its citizens and preserve affordable rental housing options.

Joining the city and its residents in opposition at the hearing were the Maine Tourism Association, Hospitality Maine, the Vacation Rental Professionals of Maine, the American Cancer Society Cancer Action Network (ACS CAN), and MMA. The first three of these organizations spoke to how Maine’s longstanding rental industries are complying with local codes and still thriving, acknowledging that many regulatory questions are best answered at the local level. ACS CAN expressed concern with the language of the bill, pointing out the lack of clarity regarding whether or not a smoking regulation could be narrowly-tailored enough to pass muster, or could be considered a

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## On the House Calendar

### Education Committee to Study School Funding Models

This week, members of the House and Senate assigned two tasks to the Education and Cultural Affairs Committee through the adoption of joint orders offered by Rep. Pinny Beeb-Center of Rockland.

The first joint order directs the committee to determine and identify the resources necessary to ensure the state meets its obligation to fund 55 percent of the cost of K-12 public education. The second joint order directs the committee to determine whether the Essential Programs and Services (EPS) Funding Act is meeting its “goals of providing an appropriate and

sufficient level of state funding for public education.”

Both orders require the committee to invite the Commissioner of Education, superintendents of school administrative units and representatives of municipalities and regional service centers to participate in the discussions and to report out recommendations and legislation for consideration by the entire Legislature no later than Jan. 15, 2020.

MMA is intrigued by this approach and will be watching these studies closely. Please stay tuned for updates.

prohibited restriction.

In written testimony, the Maine Association of Planners pointed to consequences for overall economic growth when short-term rental conversions lead to a shortage of traditional long-term workforce housing. The Planners acknowledged that the number of short-term rentals continues to grow even in communities that regulate them.

MMA doubled-down on earlier testimony regarding the importance of home rule, highlighting how land use decisions have long been and should continue to be squarely within the jurisdiction of municipalities. The Association also encouraged the committee

to focus on the ambiguous language of the bill, which appears to simultaneously prohibit and allow municipal regulation and could invite lawsuits when applied locally.

The bill's sponsor, Rep. Scott Strom of Pittsfield, and a representative of the Maine Heritage Policy Center provided testimony in support of LD 209.

The sponsor testified that he submitted the bill to address the inequity that occurs when municipalities outright ban short-term rentals, but allow hotels and motels to operate within the communities' boundaries. Yet, to the Association's knowledge, no municipalities in Maine have banned short term rentals.

The Maine Heritage Policy Center, which reportedly proposed the bill based on legislation in Arizona, testified that municipal regulation of short term rentals is generally unnecessary and suppresses entrepreneurial spirit.

While the emerging sharing economy may in many ways make sense, municipal leaders from across the state believe its expansion should be based on merit, not on the erosion of the local oversight that has for years helped ensure traditional lodging businesses remain safe for the public and fit for the community.

The work session on LD 209 has not yet been scheduled.

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## Modernizing the Local Government Finance Survey

### Volunteers Needed

Since 2008, the Maine Municipal Association has worked in conjunction with the U.S. Census Bureau to consolidate the several financial surveys conducted by the two organizations into a single annual request to the communities. The information gathered in this survey is beneficial for federal, state and local government officials, as well as MMA. The collected data is used to generate several reports such as the Census Bureau's *State and Local Government Finance Report* and MMA's *Fiscal Survey Report*, and is one

of very few sources of comprehensive municipal revenue and expenditure data.

In an effort to make the data collection process easier for municipal officials and create a "one stop shopping" experience, MMA is taking the steps necessary to employ an on-line process for collecting the fiscal information, similar to that used to collect municipal salary survey data. Our goal is to make the submission of this data less burdensome for our members and allow for immediate information sharing. As

data is entered, municipal officials will have the ability to compare their revenue and expenditure information with peer communities.

In order to take the next step in the survey conversion process, we need five to 10 municipal volunteers to test the on-line platform and provide input on the product. If you would like to be one of the beta testers, please contact Rebecca Graham at [rgraham@memun.org](mailto:rgraham@memun.org) who will provide you with the keys for your test drive.

### Legislative Bulletin

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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:** Kate Dufour, Garrett Corbin, Rebecca Graham and Laura Ellis of the State & Federal Relations staff.

**Layout:** Jaime Clark, of Communication & Educational Services.

## 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, February 25**

**Criminal Justice & Public Safety**  
**Room 436, State House, 10:00 a.m.**  
**Tel: 287-1122**

LD 215 – An Act To Increase the Reimbursement Rate for Ambulance Service Paid by the Department of Corrections.

**1:00 p.m.**

LD 263 – An Act To Prohibit Certain Sex Offenders from Establishing Residence in Certain Multiunit Residential Buildings in which Minors Reside.

LD 353 – An Act To Classify Recovery Residences as One-family Dwellings for the Purposes of the Fire Code.

LD 430 – An Act To Establish and Promote a System of Safe Disposal of Expired Marine Flares.

**Health & Human Services**  
**Room 209, Cross Building, 12:00 p.m.**  
**Tel: 287-1317**

LD 752 – An act To Reduce Food Insecurity and Promote Economic Growth.

**Labor & Housing**  
**Room 202, Cross Building, 11 a.m.**  
**Tel: 287-1331**

LD 369 – An Act To Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees.

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

LD 301 – An Act To Help Older Adults Age in Place through Comprehensive Planning.

LD 481 – An Act To Allow the Expansion of the Types of Newspapers That Qualify as Legal Notice Publishers by Removing the 2<sup>nd</sup> Class Postal Matter Requirement.

LD 482 – An Act To Reduce the Participation Thresholds for Various Municipal Referenda and To Change the Measurement of Those Thresholds from Votes Cast for and against the Question to Votes in Favor of the Question.

LD 489 – An Act To Allow Municipalities To Enforce New Noise Ordinances on Existing Shooting Ranges.

LD 520 – An Act To Resolve Tie Votes by the Washington County Budget Advisory Committee.

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

LD 293 – An Act Regarding Early Voting in Person.

LD 619 – RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Early Voting.

LD 753 – An Act To Allow Voters To Choose Ongoing Absentee Voter Status.

LD 780 – An Act to Change Municipal Campaign Contribution Limits.

### **Tuesday, February 26**

**Energy, Utilities & Technology**  
**Room 211, Cross Building, 1:00 p.m.**  
**Tel: 287-4143**

LD 694 – An Act To Amend the Charter of the Town of Madison's Department of Electric Works.

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

LD 241 – An Act To Adjust the Personal Property Tax Exemption for Farm Machinery.

LD 448 – An Act Repealing Tax Lien Foreclosure Requirements.

LD 451 – An Act To Repeal the Recently Enacted Changes to the Law Governing Tax Lien Foreclosure.

**Transportation**  
**Room 126, State House, 1:00 p.m.**  
**Tel: 287-4148**

LD 10 – An Act To Provide That Inspections of New Motor Vehicles Are Valid for 2 Years.

LD 117 – An Act To Exempt Motor Vehicles Less Than 5 Years Old from Inspection.

LD 207 – Resolve, To Rename the Stillwater Bridges in Old Town the Llewellyn Estes Bridge.

LD 389 – An Act To Require Biennial State Motor Vehicle Inspections.

### **Wednesday, February 27**

**Environment & Natural Resources**  
**Room 216, Cross Building, 10:00 a.m.**  
**Tel: 287-4149**

LD 61 – An Act To Improve the Maine Bottle Redemption Process.

LD 87 – An Act To Increase the Bottle Redemption Deposit.

LD 378 – An Act To Amend Maine's Bottle Deposit Law.

LD 575 – An Act To Increase the Bottle Redemption Deposit and the Amount Retained by Bottle Redemption Centers.

LD 579 – An Act To Update Beverage Container Deposits and Redemption Values.

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

LD 765 – Resolve, To Revise Asset Limits for Social Service Programs.

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## LEGISLATIVE HEARINGS (cont.)

**Inland Fisheries & Wildlife**  
**Room 206, Cross Building, 9:15 a.m.**  
**Tel: 287-1338**

LD 212 – An Act To Provide a Source of Funding for the ATV Recreational Management Fund.

LD 235 – An Act To Increase Funding To Contain and Manage the Spread of Invasive Aquatic Species.

LD 442 – An Act to Set Speed Limits for All-terrain Vehicles on Trails within 50 Yards of a Stream or Pond To Prevent Runoff.

LD 713 – An Act To Strengthen Maine’s Endangered Species Laws.

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

LD 521 – An Act To Amend the Archives and Records Management Law.

LD 554 – An Act To Clarify the Authority to Recall Municipal Officials.

LD 563 – An Act To Help Municipalities Prepare for Sea Level Rise.

LD 585 – An Act To Allow the Adoption of Ordinances Prohibiting the Accumulation of Trash on Private Property in Plantations and Unorganized Territories.

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

LD 146 – An Act To Make the Assessment and Collection of Personal Property Taxes Optional for Municipalities.

LD 824 – An Act to Allow a Municipality To Opt Out of Collecting Personal Property and Business Equipment Taxes.

**Veterans & Legal Affairs**  
**Room 437, State House, 9:00 a.m.**  
**Tel: 287-1310**

LD 534 – An Act To Make Ballot Questions Easier To Read and Understand for Maine Voters.

LD 661 – An Act To Increase Gaming Opportunities for Charitable Veterans’ Organizations.

**10:00 a.m.**

LD 322 – An Act To Strengthen Maine’s Election Laws by Requiring Photographic Identification for the Purpose of Voting.

### *Thursday, February 28*

**Agriculture, Conservation & Forestry**  
**Room 214, Cross Building, 1:00 p.m.**  
**Tel: 287-1312**

LD 199 – An Act To Create the Water Resources Planning Committee.

LD 333 – An Act To Amend the Laws Governing Dangerous Dogs and Nuisance Dogs To Allow for Flexibility in Protection Dog Training.

LD 723 – An Act To Enhance Resource Management of Submerged Lands beneath Impounded Waters.

**Energy, Utilities & Technology**  
**Room 211, Cross Building, 1:00 p.m.**  
**Tel: 287-4143**

LD 674 – An Act To Improve the E-9-1-1 System.

LD 743 – An Act To Create Local Options in E-9-1-1 Protocol Mandates.

**Innovation, Development, Economic Advancement & Business**  
**Room 202, Cross Building, 1:00 p.m.**  
**Tel: 287-4880**

LD 671 – An Act To Require Professional Licensure for Property Inspectors.

**Transportation**  
**Room 126, State House, 1:00 p.m.**  
**Tel: 287-4148**

LD 323 – An Act to Set the Minimum Penalty for Littering on State Highways at \$1,000.

LD 546 – An Act To Enhance Highway Safety by Strengthening the So-called Move Over Law.

LD 597 – Resolve, To Establish a Pilot Project Authorizing the Use of Traffic Surveillance Cameras on Castine Road in Orland.

LD 656 – An Act To Increase the Penalty for Passing a School Bus with Its Red Lights Flashing.

### *Friday, March 1*

**Environment & Natural Resources**  
**Room 216, Cross Building, 10:00 a.m.**  
**Tel: 287-4149**

LD 562 – An Act To Improve Shoreland Zoning Rules and Enforcement To Support Municipalities.

LD 565 – An Act To Establish the Maine Coastal Risks and Hazards Commission.

LD 590 – An Act To Promote Climate Resiliency Measures To Protect Beaches and Near-shore Infrastructure.

LD 774 – An Act to Protect Maine’s Beaches and Shoreline.

**Veterans & Legal Affairs**  
**Room 437, State House, 9:00 a.m.**  
**Tel: 287-1310**

LD 418 – An Act To Implement the National Popular Vote for President.

LD 816 – An Act To Implement the National Popular Vote for President of the United States.

## IN THE HOPPER

(The bill summaries are written by MMA staff and are not necessarily the bill's official 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).)

### Agriculture, Conservation and Forestry

LD 568 – An Act to Change the Composition of the Maine Land Use Planning Commission. (Sponsored by Rep. Dunphy of Old Town)

This bill amends the laws governing the composition of the Maine Land Use Planning Commission to increase the number of members appointed by the Governor from one to three and to decrease the number of members appointed by the counties from eight to six.

LD 908 – An Act To Require Schools To Submit Pest Management Activity Logs and Inspection Results to the Board of Pesticides Control for the Purpose of Providing Information to the Public. (Sponsored by Rep. Daughtry of Brunswick)

This bill establishes in law certain requirements of the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control related to pest management on school property. It requires a school to maintain a pest management activity log related to the application of pesticides. It requires this information to be provided annually to the board and requires the board to post the information on its publicly accessible website. It also requires that the board post on its publicly accessible website a list of all board inspections of a school's use of pesticides and the results of those inspections.

### Appropriations and Financial Affairs

LD 923 – An Act To Authorize a General Fund Bond Issue To Upgrade Municipal Culverts at Stream Crossings. (Sponsored by Rep. Gideon of Freeport)

This bill sends out to the voters a proposed \$5 million bond issue to provide funds for a competitive grant program that matches local funding for the upgrade of municipal culverts at stream crossings in order to enhance and restore rivers, streams and fish and wildlife habitats and to allow communities to better prepare for extreme storms and floods.

### Criminal Justice and Public Safety

LD 460 – An Act Requiring the State To Reimburse Counties for All Costs Exceeding the Tax Assessment for Correctional Services. (Sponsored by Rep. Stanley of Medway)

This bill requires the Department of Corrections to reimburse a county for the annual costs of correctional services that exceed the county's tax assessment for those services.

LD 636 – An Act To Require Law Enforcement Officers To Wear Body Cameras. (Sponsored by Sen. Deschambault of York Cty.)

Beginning Jan. 1, 2021, the bill requires law enforcement officers to be equipped with a body-worn camera that is in operation and creating a recording at all times the officer is in uniform and engaged in law enforcement-related encounters or activities. The bill also provides that the use of body-worn cameras by law enforcement officers and the maintenance and retention of data and recordings must be consistent with model policies and procedures developed by the Board of Trustees of the Maine Criminal Justice Academy.

LD 678 – An Act Requiring the State To Fund 20.25 Percent of the Cost of County Jails. (Sponsored by Rep. Stanley of Medway)

This bill requires the Department of Corrections to reimburse a county for 20.25% of the cost of the county's correctional services.

LD 691 – An Act Regarding County Jail Funding. (Sponsored by Rep. Riley of Jay)

This bill requires that instead of a specific dollar amount the state provide at least 20.22% of the cost of county jail operations to the County Jail Operations Fund for distribution to county jails.

LD 755 – An Act To Ensure Funding Sources for County Jails. (Sponsored by Rep. Riley of Jay)

This bill removes the 4% growth limitation factor on county tax assessments for jail operations.

LD 767 – An Act To Ensure the Availability of In-person Visitation in County Jails. (Sponsored by Rep. Talbot Ross of Portland)

This bill requires the sheriff of a county jail to provide for in-person visitation between a prisoner and a visitor of the prisoner, subject to any conditions and limitations required for the safety and security of the jail as determined on a case-by-case basis by the sheriff. The bill authorizes a sheriff to restrict a particular prisoner to video-only visitation upon a determination that allowing in-person visitation for that prisoner may jeopardize the safety and security of the jail. The bill also requires the sheriff to provide opportunities for in-person visitation involving physical contact between a prisoner and a visitor of the prisoner, subject to any conditions and limitations required for the safety and security of the jail as determined on a case-by-case basis by the sheriff.

LD 804 – An Act To Ensure Programming for Long-term Incarcerations at County Jails. (Sponsored by Rep. Warren of Hallowell)

This concept draft bill proposes to ensure programming for long-term incarcerations at county jails.

### Education and Cultural Affairs

LD 654 – An Act Regarding Instruction in Civics in Secondary Schools. (Sponsored by Rep. Ordway of Standish)

This bill clarifies that instruction in civics is part of the comprehensive program of instruction in secondary schools and also adds civics to the parameters for essential instruction and graduation requirements in the system of learning results.

### Energy, Utilities & Technology

LD 790 – An Act To Eliminate the Cap on the Number of Accounts or Meters Designated for Net Energy Billing. (Sponsored by Sen. Miramant of Knox Cty.)

This bill prohibits the Public Utilities Commission from adopting or amending net energy billing rules to impose any limit on the number of accounts or meters that customers may designate for net energy billing or any limit on the number of customers that may share an interest in a generation facility for which the energy output is credited as part of any net energy billing.

### Environment and Natural Resources

LD 562 – An Act To Improve Shoreland Zoning Rules and Enforcement To Support Municipalities. (Sponsored by Rep. Blume of York)

This bill amends the shoreland zone laws to: (1) require the state to provide both basic and advanced training to code enforcement officers; (2) increase the maximum per day civil penalty for a specific violation of a municipal land use law or ordinance from \$2,500 to \$5,000 and increases the maximum per day civil penalty for a specific violation of a municipal shoreland zoning ordinance occurring within an area zoned for resource protection from \$5,000 to \$10,000; and (3) require an applicant for a permit for development within the shoreland zone to provide to the municipal permitting authority preconstruction and post construction photographs of the shoreline vegetation and development site.

LD 565 – An Act To Establish the Maine Coastal Risks and Hazards Commission. (Sponsored by Rep. Blume of York)

This bill establishes the Maine Coastal Risks and Hazards Commission for the purpose of developing recommendations to address

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and prepare for coastal hazards, including increased storm surges, extreme precipitation, sea level rise and hazards posed to municipalities, the coastal economy and state assets. The 21 member commission includes three members of the legislature; representatives from the departments of Environmental Protection, Transportation, Agriculture, Conservation and Forestry, and Marine Resources; representatives from the Portland, Hancock County, Lincoln County, Washington County, and Southern Maine planning commissions; a municipal designee, as well as representatives from the tourism or recreational, environmental management, marine-based, real estate, and working waterfront industries. The commission is directed to meet at least four times annually to review available data, identify vulnerable coastal assets, and develop a set of actionable strategies and best practices to protect, adapt and sustain vulnerable coastal assets. On or before Nov. 1, 2022 and every four years thereafter, the commission must submit a report, including draft legislation to a committee of the Legislature with jurisdiction over environmental and natural resources matters.

**LD 603 – An Act To Amend the Laws Governing Funding for Landfill Closure Costs.** (Sponsored by Sen. Dill of Penobscot Cty.)

This bill extends the eligibility period for closure costs for a landfill that currently applies only to a landfill licensed on or before September 1, 1989. The bill provides that if a license application for a landfill was accepted for processing on or before Sept. 1, 1989 and the application was approved by the Commissioner of Environmental Protection within one year of accepting the application for processing, the landfill is eligible for payment of 75% of certain closure costs by the Department of Environmental Protection.

**LD 797 – An Act To Limit Greenhouse Gas Pollution and Effectively Use Maine’s Natural Resources.** (Sponsored by Rep. Tucker of Brunswick)

This bill provides that by Jan. 1, 2050 the state must reduce net annual greenhouse gas emissions to at least 80% below the 1990 net annual greenhouse gas emissions level. It directs the Department of Environmental Protection to establish interim net annual emissions levels and to monitor and report on gross and net annual greenhouse gas emissions. The bill also directs the department to update the state’s climate action plan and evaluate the State’s progress toward meeting the reduction levels.

**LD 818 – An Act To Reduce Greenhouse Gas Emissions. (Emergency)** (Sponsored by Sen. L. Sanborn of Cumberland Cty.)

This bill provides that by Jan. 1, 2030 the state must reduce net annual greenhouse gas emissions to at least 80% below the 1990 net annual greenhouse gas emissions level. It directs the Department of Environmental Protection to establish interim net annual emissions levels and to monitor and report on gross and net annual greenhouse gas emissions. It directs the department to update the state’s climate action plan and evaluate the state’s progress toward meeting the reduction levels. It requires the Board of Environmental Protection to establish greenhouse gas emission standards for individual sources or categories of sources.

**LD 893 – An Act To Create an Updated Unified Maine Climate Action Plan.** (Sponsored by Sen. Dill of Penobscot Cty.)

This bill requires the Department of Environmental Protection, working with the Maine Interagency Climate Adaptation (MICA) Work Group, and the University of Maine, to update the Maine Climate Action Plan developed in 2004 by the department. It requires the updated plan to address both mitigation and adaptation strategies. It requires the department and the MICA Work Group to convene a group of stakeholders, including representatives of municipal government, to evaluate the mitigation and adaptation strategies in order to update the plan and provides internships for University of Maine students to work on the development and implementation of the updated plan. The bill also allocates \$400,000 over the biennium to fund the effort.

**LD 906 – An Act Concerning Pavement Sealing Products.** (Sponsored by Rep. Daughtry of Brunswick)

This bill prohibits the sale of coal tar sealant products beginning October 1, 2020 and prohibits the application of coal tar sealant products on driveways or parking areas beginning October 1, 2021. The Commissioner of Environmental Protection may grant an exemption from the prohibitions for research or development purposes.

### **Innovation, Development, Economic Advancement and Commerce**

**LD 862 – An Act To Limit the Amount of Money That May Be Retained on Construction Contracts.** (Sponsored by Rep. Tepler of Topsham)

This bill limits the amount of money that may be retained under a construction contract, pending the completion of contractor or subcontractor performance, to 5% of the contract price. The limit applies only to private contracts and not to contracts entered into by governmental entities and only to contracts entered into on or after the effective date of the legislation.

### **Labor and Housing**

**LD 758 – An Act To Clarify Work Search Requirements for Workers’ Compensation.** (Sponsored by Rep. Sylvester of Portland)

Under current law, an injured worker who is only partially incapacitated by a workplace injury may be eligible for so-called 100% partial incapacity benefits if the worker is not working, as long as the worker can demonstrate that the lack of employment is due to the injury and that the worker has not been able to obtain employment, within the restrictions caused by the partial incapacity, despite an adequate work search. This bill abrogates the current “work search rule” by placing the burden on the previous employer to demonstrate that there is suitable employment available to the injured worker in the worker’s local community. If the previous employer has demonstrated suitable available employment, the injured worker may still be eligible for so-called 100% partial incapacity benefits if the worker can demonstrate continued unemployment despite reasonable efforts to secure the alternative employment identified by the previous employer.

**LD 947 – An Act To Extend the Notice of Injury Period in the Maine Workers’ Compensation Act of 1992.** (Sponsored by Sen. Bellows of Kennebec Cty.)

Under current law governing workers’ compensation, an employee must provide notice of injury to an employer within 30 days after the date of injury. This bill provides that, for claims for which the date of injury is on or after January 1, 2020, an employee must provide to the employer notice of the injury within 180 days after the date of injury.

### **State and Local Government**

**LD 226 – An Act To Require the Use of Preapproved Subcontractors for Publicly Funded Construction Projects.** (Sponsored by Rep. Sylvester of Portland)

This bill requires the use of preapproved subcontractors for certain components of work included in bids awarded to general contractors for public improvement construction projects subject to competitive bidding.

**LD 482 – An Act To Reduce the Participation Thresholds for Various Municipal Referenda and To Change the Measurement of Those Thresholds from Votes Cast for and against the Question to Votes in Favor of the Question.** (Sponsored by Sen. Pouliot of Kennebec Cty.)

This bill changes the requirements for a municipality to withdraw from a regional school unit following a vote on a withdrawal agreement. Current law requires that the total number of votes cast for and against withdrawal equal or exceed 50% of the total votes cast in the municipality for Governor in the last gubernatorial election. This bill requires instead that the number of votes cast in favor of withdrawal equal or exceed 25% of the total votes cast in the municipality for Governor in the last gubernatorial election. This bill also changes the requirements for a new

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## HOPPER (cont.)

municipal charter, or charter revision, modification or amendment in a question before the voters to go into effect. Current law requires that the total number of votes cast for and against the question equal or exceed 30% of the total votes cast in the municipality in the last gubernatorial election. This bill requires instead that the number of votes cast in favor of the proposed change equal or exceed 15% of the total votes cast in the municipality in the last gubernatorial election and clarifies that this means votes cast for Governor in that election. Also, while this bill does not change the requirement that a majority of votes cast for and against the proposed change be in favor of it in order for that change to go into effect, it clarifies that blank votes are not counted in that calculation. This bill also changes the requirements for a deorganization of a municipality to go into effect following a vote on final approval. Current law requires that the total number of votes cast for and against deorganization must equal or exceed 50% of the total votes cast in the municipality for Governor in the last gubernatorial election in order for the deorganization to go into effect. This bill requires instead that the number of votes cast in favor of deorganization must equal or exceed 1/3 of the total votes cast in the municipality for Governor in the last gubernatorial election. Also, while this bill retains the requirement that the deorganization be approved by 2/3 of the voters in order for it to go into effect, it clarifies that that means 2/3 of those voting for or against deorganization in that election.

**LD 521 – An Act To Amend the Archives and Records Management Law.** (Sponsored by Rep. Jorgensen of Portland)

This bill makes several changes to the archives and records management laws. Of specific municipal interest, the bill repeals the requirement that municipalities respond to a biennial survey asking for a description and statement of adequacy of the fireproof safe or vault where permanent records are retained. The requirement that municipalities respond to a similar survey regarding the digital storage of permanent records is also repealed. The bill establishes the powers and duties of the state archivist, which includes the right of reasonable access to all state and local government records, the authority to establish a municipal records retention schedule and standards for retention of electronic records. The archivist is also tasked with preparing detailed explanation of what constitutes a record belonging to the state or a municipality. The bill also repeals and replaces the nine member Archives Advisory Board. The members of the reconstructed board include two public members representing the interest of public access to government records, two members from municipal or county government with expertise in local government records, one member representing a state or local historical society, one member with expertise in the legal requirement of records retention and public records law, one member with expertise in the state's fiscal requirements of records retention, one member from the executive branch with expertise in executive branch records and one member from the Department of Administrative and Financial Services, Office of Information Technology with expertise in electronic records and management systems.

**LD 554 – An Act To Clarify the Authority to Recall Municipal Officials.** (Sponsored by Sen. Claxton of Androscoggin Cty.)

This bill repeals the provision that limits the use of the recall process for elected municipal officials to cases where the official is convicted of a crime, the conduct of which occurred during the official's term of office and the victim of which is the municipality.

**LD 563 – An Act To Help Municipalities Prepare for Sea Level Rise.** (Sponsored by Rep. Blume of York)

This bill amends the state's growth planning and land use laws to: (1) direct state, local and federal agencies responsible for regulating, planning, developing or managing coastal resources to assess the impacts of sea level rise on buildings, transportation infrastructure, sewage treatment facilities and other relevant public or privately held infrastructure, property or resources; and (2) allow a coastal municipality to address changes in sea level through its comprehensive plan. The bill also defines a "coastal municipality" as a municipality in a Department of Marine Resources identified coastal zone.

**LD 655 – An Act To Allow Municipalities To Send Separate Tax Bills for Municipal and County and School Taxes.** (Sponsored by Rep. Ordway of Standish)

This bill permits municipalities to issue separate bills for the portion of their tax commitments attributable to education funding and the portion attributable to county taxes and all other municipal costs.

**LD 696 – An Act To Protect Public Employees from Identity Theft.** (Sponsored by Sen. Bellows of Kennebec Cty.)

This bill requires a public employer that determines or suspects there has been a breach of confidentiality or theft of an employee's personal information to notify the employee within 24 hours of being notified of or discovering the breach or theft and to provide the employee financial counseling.

**LD 746 – An Act To Allow Municipalities To Determine the Duration of Development Districts Funded by Assessments.** (Sponsored by Rep. Jorgensen of Portland)

This bill provides local control to municipalities over the duration of municipal development districts that are funded by assessments and are not tax increment financing districts. Municipal development districts that are tax increment financing districts continue to be subject to the 30-year duration limitation under current law.

**LD 933 – Resolve, Authorizing Certain Persons To Sue the Town of Kittery.** (Sponsored by Rep. Rykerson of Kittery)

This resolve authorizes persons who claim to have suffered damages arising from the Kittery Community Center transport van accident on Interstate 95 in Greenland, New Hampshire on Aug. 10, 2018 to sue the Town of Kittery for damages resulting from the accident and waives the statutory limitations on damage recovery.

### Taxation

**LD 645 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Cap the Property Tax on the Primary Residence of Certain Residents Who Are 65 Years of Age or Older.** (Sponsored by Rep. Craven of Lewiston)

This resolution proposes to amend the Constitution of Maine to authorize the Legislature to require municipalities to cap property taxes on property owned and occupied as a person's primary residence if that person is at least 65 years of age and the household income for the residents of the property does not exceed 400% of the federal poverty level. The tax would be stabilized at the amount assessed on the property on the later of the date by which the person attained 65 years of age or purchased the property. Upon transfer of the property to someone other than a family member of the owner, the property would assume the just value at the time of transfer. The State would be required to reimburse a municipality for any revenue lost due to the cap on property taxes.

**LD 824 – An Act to Allow a Municipality To Opt Out of Collecting Personal Property and Business Equipment Taxes.** (By Request) (Sponsored by Rep. Theriault of China)

This bill allows a municipality, by referendum, to exempt all personal property, including business equipment, located in that municipality from assessment and collection of tax by that municipality.

**LD 854 – An Act To Improve Tax Incentives for Broadband Service.** (Sponsored by Rep. Ackley of Monmouth)

This bill expands the allowable use of tax increment financing to include development, expansion or improvement of broadband services, including connecting to broadband service outside the tax increment financing district.

**LD 873 – An Act To Limit Registration Fees on Water Well Drilling Equipment To Encourage Purchasing of Modern Equipment for Rural Well Construction.** (Sponsored by Rep. Grignon of Athens)

This bill sets the annual personal property tax on equipment for water well drilling owned by a licensed well driller at \$2,500 for tax years beginning Jan. 1, 2020 and thereafter.

*(continued on page 8)*

### Transportation

LD 689 – An Act Regarding Temporary Signs Related to an Event That Are Placed in the Public Right-of-way. (Sponsored by Sen. Chipman of Cumberland Cty.)

This bill limits the placement of temporary signs related to an event in the public right-of-way by prohibiting their placement more than 6 weeks before the event.

### Veterans and Legal Affairs

LD 619 – RESOLUTION, Proposing an Amendment to the Constitution of Maine Regarding Early Voting. (Sponsored by Rep. Schneck of Bangor)

This resolution proposes an amendment to the Constitution of Maine authorizing a process by which municipalities may allow voters to vote in the same manner as on election day during a period immediately preceding an election and allow absentee voting for any sufficient reason.

LD 661 – An Act To Increase Gaming Opportunities for Charitable Veterans' Organizations. (Sponsored by Rep. Mastraccio of Sanford)

This bill permits the Department of Public Safety, Gambling Control Board, beginning January 1, 2020, to issue a license to a charitable nonprofit organization that is a veterans' organization that is tax-exempt under the United States Internal Revenue Code of 1986 to operate up to 3 slot machines on premises that have been owned, rented or leased by the organization for at least 2 consecutive years, that serve as its primary administrative operations headquarters and that are located in a municipality that has, by referendum of the voters, approved the operation of slot machines in that municipality. The charitable nonprofit veterans' organization must be able to demonstrate

that it has a cash reserve of \$1,000 for each machine the organization intends to operate. A charitable nonprofit veterans' organization that wishes to apply prior to January 1, 2020 may file a declaration of intent to apply with the Gambling Control Board. An application must include a refundable \$2,500 deposit. The initial application fee for a slot machine operator license is \$500, and the annual renewal fee is \$175. A slot machine operated by a charitable nonprofit veterans' organization is subject to the same central site monitoring that applies to casinos and slot machine facilities at harness racing tracks. The total number of slot machines allowed to be operated by charitable nonprofit veterans' organizations statewide between January 1, 2020 and December 31, 2020 is 80; beginning January 1, 2021 the number increases to 150. The bill provides that 10% of the net slot machine income from a charitable nonprofit veterans' organization is required to be deposited directly with the Gambling Control Board for administrative expenses; 8% goes directly to the General Fund; 10% goes to the host municipality; and 2% is dedicated to gambling addiction prevention and treatment. A charitable nonprofit veterans' organization that is licensed to operate slot machines is required to establish a separate account, from which the board may withdraw funds to distribute the net revenue percentages. The remaining revenue generated from the slot machines must be used to support the charitable purposes of the veterans' organization.

LD 753 – An Act To Allow Voters To Choose Ongoing Absentee Voter Status. (Sponsored by Rep. Fecteau of Biddeford)

This bill provides a process for a voter to request ongoing absentee voter status in a municipality that has approved the use of ongoing absentee voter status, which allows the voter to automatically receive an absentee ballot for each statewide and municipal election until the status is terminated.