

Municipalities' Broadband Battle

As has been described in previous editions of the *Legislative Bulletin*, in addition to supporting new bond funding for the statewide expansion of access to reliable internet service since 2015, this year MMA's Legislative Policy Committee voted to put forward three additional proposals that would not require state funding.

The public hearing on the Association's broadband related proposals took place before the Energy, Utilities and Technology Committee on Wednesday.

The public hearing on the first of the bills, LD 1063, *An Act To Support the Role of Municipalities in Expanding Broadband Infrastructure*, sponsored by Rep. Jay McCreight of Harpswell, lasted two full hours. The bill adds detailed authority for municipalities to construct "community broadband systems" on the basis of a pressing public need, while ensuring that the threat of litigation does not hinder local ingenuity.

Some well-versed municipal officials testified in support of the bill. Portland Economic Development Director Greg Mitchell described to the committee how the need is not only experienced in rural areas. Modern, forward-facing infrastructure is an integral part of the city's effort to develop its workforce and economy with an eye toward being on the cutting edge. Lewiston City Administrator Ed Barrett described how robust competition and quality, affordable service go hand in hand. He also pointed out how these municipal broadband endeavors are not a public sector takeover but rather a reflection of the incumbent providers not being in a position to provide a needed service. His points underscored how municipalities have their hands full ad-

ressing existing public needs and are not looking to compete with the private sector.

Sanford City Manager Steven Buck provided the committee with something of a master class as he fielded numerous questions related to the finer details of how his city's initiative came about over several years, and how it will operate once it goes live in May. Roger Heinen also captured the committee's attention. As the chair of the Islesboro Municipal Broadband Committee, he has been a key part of the town-supported effort to deliver low cost gigabit-level fiber internet access

to every home and business in town. His testimony was offered in support of LD 1063 in an effort to encourage "legislative wisdom" and clarity, helping other municipalities avoid having to address so many questions from scratch, as his island community did.

Following these proponents, one committee member called their efforts, "a testament to the grit of municipalities."

Also generally supportive of community efforts was the Island Institute, which painted a picture of what it's like

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Taxation Committee to Hear Revenue Sharing Bills

On Tuesday, April 9 at 1:30 p.m., the members of the Taxation Committee will hold a public hearing on four state/municipal revenue sharing bills. Coincidentally, in the 30 minutes preceding the hearing, the committee will report back to the Appropriations Committee with recommendations on the tax related portions of Governor Mills' FY 2020 – FY 2021 General Fund Budget. One of those recommendations will address the budget proposal seeking to increase funding for revenue sharing from the current two percent of state sales and income tax to 2.5 percent in FY 2020 and three percent in FY 2021, as opposed to the five percent provided in existing state statute.

The bills to be heard by the committee include:

LD 1278, *RESOLUTION, Proposing an Amendment to the Constitution of Maine Requiring the State To Share Not Less Than 5 Percent of State Sales and*

Income Tax Revenue with Municipalities, sponsored by Sen. Marianne Moore of Washington County on behalf of MMA's Legislative Policy Committee, seeks to amend the state's constitution in an effort to ensure consistent funding for the revenue sharing program. If supported by two-thirds of the Legislature and subsequently validated by the voters at a referendum election, the state would be required to dedicate and distribute not less than five percent of state sales and income tax revenue to municipalities.

LD 133, *An Act To Fully Restore State-Municipal Revenue Sharing for Fiscal Year 2018-19*, sponsored by Rep. Jeffrey Evangelos of Friendship, proposes to retroactively restore funding for the state/municipal revenue sharing program from two percent to five percent of state sales and income tax revenue as of July 1, 2018.

LD 193, *An Act To Fully Fund and*
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Municipalities' Broadband Battle (cont'd)

for small Washington County towns like Roque Bluffs to find a common interest in broadband. The Institute relayed a story of one selectboard member claiming at a recent meeting that nothing had brought the town together quite like the need for internet services since the need for a fire substation arose a decade ago.

From the perspective of the opponents, LD 1063 is unnecessary, enables an activity that is already lawful, and champions a model that is potentially asymmetrical to theirs and not in the best interest of citizens. The utilities (Charter, Comcast, and the Telecommunications Association of Maine) testified that the model they believe is a safer investment of local resources includes public subsidy to "attract" their private investment.

The second bill, LD 1192, *An Act To Establish Municipal Access to Utility Poles Located in Municipal Rights-of-way*, sponsored by Sen. Eloise Vitelli of Sagadahoc County, would exempt municipalities from having to pay utility "make ready" fees for moving the utilities' own facilities out of the traditional municipal space on utility poles.

Support, from the same folks noted above as well as from the Three Bridged Islands Broadband Initiative in Sagadahoc County, was hard-hitting. On behalf of the Initiative, Carlos Barrionuevo explained that make ready costs are completely within the control of the utilities right now, and they could account for between 20-35 percent of the Initiative's costs. Roger Heinen likened pole attachment and make ready discussions to practicing voodoo. Steven Buck said he believed it is wrong for the utilities to charge municipalities to move their facilities because it is the utilities' choice to occupy the common space in a way that leaves no room for municipalities. Ed Barrett noted that many states authorize municipalities to collect right of way fees, often as a percent of the gross receipts of utilities.

In their opposition, the same representatives of the cable and telecommunications industries described the bill as a blow to ratepayers and an unconstitutional exercise of eminent domain that seizes private property without just compensation. Interestingly, this takings argument

has only come up in the past year. For decades, utilities acknowledged that granting municipalities some space on the private pole was a fair trade for granting the utility space in the public way.

To summarize the municipal position on LD 1192, there is no objection to utilities having their cake, and eating it too, and even charging municipalities if they want to have a slice for broadband purposes. All the bill asks for is that utilities not tack on a surcharge to cut the slice.

To be fair, the final piece of legislation heard by the committee does ask for a few more things, but only to ensure municipalities are able to keep track of what has been deployed in the right of way and to keep local regulatory authority from being disregarded altogether. Although the bill is not broadband-specific, it arose out of the same conversations.

LD 1206, *An Act To Improve Aboveground Utilities' Responsiveness to Public Interests*, sponsored by Rep. Pinny Beebe-Center of Rockland, and adeptly presented in her stead by Sen. David Woodsome of York County due to a scheduling conflict, asks the Legislature to allow municipalities to require location permits for new facilities attached to utility poles, and to require licenses of telecommunications utilities to ensure continued compliance, and to impose fines on utilities who have not responded to municipal requests for more than six months.

By way of illustration, the committee was provided with a map showing reports from all corners of Maine and a list of issues citing significant delays and run-arounds, abandoned poles, safety hazards, pedestrian impediments, and a variety of issues municipalities find themselves having to remedy. There appears to be a marked uptick in utility companies disregarding local officials, not everywhere, but in too many locations to tolerate. The point of LD 1206 is that municipalities need new tools to compel utility responsiveness.

Lewiston Administrator Barrett provided photos of improperly placed poles for the committee's reference. Sanford Manager Buck explained that Title 35-A section 2503 does an alright job govern-

ing the permit application procedure, but that the relocation, replacement and additions subsections of that statute need reinforcement. In his experience, those aspects of location permitting are where the process breaks down. Portland Public Works Deputy Director Daniel Mirabile testified that his city has an ongoing problem with the removal of utility poles, estimating there are currently 100 poles waiting for removal by utilities. He also described how compaction issues are often inadequately addressed by utilities following pole removal, creating added work and liability for his department.

The response from utilities voicing opposition, which included the same companies noted above as well as Central Maine Power and Dirigo Electric Cooperative, was general astonishment. Different utilities claimed to be "confused," "puzzled," and caught by "complete surprise" by the municipal testimony. After months if not years of news reports, agency investigations, and legislative hearings, the Association is similarly perplexed by their reaction. Based on the questions asked, the committee seemed to view what is happening as a serious breakdown in communication.

Regardless of who is to blame, MMA takes issue with one of the for-profit company's depiction of the bill as a "revenue enhancer" for municipalities. In the Association's view, a real revenue enhancer would be the general utility franchise fees authorized for municipalities in all but twelve states, or the right of way fee authorities allowed in half the country. Maine's towns and cities might even be content with the authority to recover actual costs as authorized in another nine states.

Will the Legislature heed the request of municipal officials to restore the public policy balance that protects both property taxpayers and ratepayers? Or will it opt for the more common national fee approach, or continue to allow municipalities to get the short end of the stick when they're trying to help address Maine's broadband quagmire?

The Energy, Utilities and Technology Committee will weigh this choice at its yet to be scheduled work sessions on these three important bills.

Local Option Sales Tax Bills Heard

Municipal and Business Communities at Odds

Of the 31 participants at the Taxation Committee's public hearing on five local option sales tax bills, 15 spoke in favor, 15 spoke in opposition and the Department of Administrative and Financial Affairs (DAFS) spoke "neither for nor against." All of the bills seek to either provide municipalities with the authority to raise much needed non-property tax revenues or dedicate increased sales tax revenues to communities. The bills heard at Wednesday's hearing included:

LD 65, *An Act To Allow Municipalities To Impose a Seasonal or Year-round Local Option Sales Tax*, sponsored by Rep. Pinny Beebe-Center of Rockland, authorizes municipalities to adopt a local option sales tax of not more than one percent to be assessed against all taxable sales and used to fund a designated program or service. As provided for in LD 65, the tax can be assessed on either a year-round or seasonal basis.

Similarly, LD 1101, *An Act To Establish a Local Option Sales Tax*, sponsored by Rep. Lori Gramlich of Old Orchard Beach, provides municipalities with the same options, except the tax must be assessed on a year-round basis.

LD 156, *An Act To Allow Regional Service Center Municipalities To Assess an Additional One Percent Sales Tax for Infrastructure Costs*, sponsored by Rep. David Miramant of Knox County, authorizes service center communities to adopt a local option sales tax of not more than one percent to be assessed against all taxable sales and used to fund local infrastructure costs.

LD 1254, *An Act To Authorize a Local Option Sales Tax on Meals and Lodging and Provide Funding To Treat Opioid Use Disorder*, sponsored by Rep. Michael Sylvester of Portland, authorizes municipalities to adopt a local option sales tax of not more than one percent to be assessed against the sale of prepared foods and the value of rental living quarters and authorizes the tax to be implemented either year-round or seasonally. Furthermore under the terms of the bill, 85 percent of the generated revenue is distributed to the municipality where the sale was

generated and 15 percent distributed to all municipalities to be used to prevent and treat opioid use disorder in their communities.

Lastly, LD 609, *An Act To Provide Municipalities Additional Sales Tax Revenue from Lodging Sales*, sponsored by Rep. Maureen Terry of Gorham, increases the sales tax on lodging by one percent and dedicates the revenue to the municipality where the sale was originated.

With the exception of LD 609, which is subject to the vote of the Legislature, if enacted each bill requires voter validation via local referendum before the municipality can implement the sales tax proposal.

The proponents of the bills included municipal officials from Auburn, Augusta, Bar Harbor, Damariscotta, Lewiston, Portland, Rockland, and South Portland, as well as representatives of the Maine Service Center Coalition, Mayors' Coalition and MMA. The proponents' testimony focused largely on the need to diversify local sources of revenue to reduce the burdens placed on property taxpayers, as well as a means of addressing the unique challenges faced by service center and tourism industry communities.

Representatives from the state's service center communities spoke of the burdens associated with funding and providing government services to a population that is much larger than their property tax base can support. These communities attract people from a larger region for jobs, housing, retail, recreational opportunities, and social services programs and, in large part, help to generate sales tax revenue. Municipal officials from these communities believe the tax authority sought in the bills will generate some of the revenue necessary to offset the costs of providing municipal services to a daytime population that exceeds the fulltime resident population.

Communities that host seasonal visitors also testified to the short-term, yet significant, demands placed on public safety, waste management and traffic enforcement services during peak tourism months. In these municipalities, a local sales tax would allow a portion of

the costs associated with providing additional services to be shifted off the backs of the property taxpayers and onto the visitors who create the need for expanded municipal services.

Hotel owners, hospitality industry and business community representatives, the Maine State Chamber Commerce, as well as representatives of local chambers of commerce, all provided testimony in opposition to the bills. The opponents believe the authority proposed in the bills will pit community against community, discourage people from vacationing in Maine, encourage on-line shopping, disproportionately impact low-income Mainers and hurt small businesses.

In its "neither for nor against" testimony, DAFS urged the committee to examine the local option authority thoroughly and raised concerns with the costs to the state to develop the infrastructure necessary to administer the program. The department further cautioned that the taxing authority sought in the local option sales tax bills could run afoul of Article IX, Section 9 of Maine's Constitution, which provides that the "Legislature shall never, in any manner, suspend or surrender the power of taxation."

The committee will work the bills at 1 p.m. on Wednesday, April 3.

Taxation Committee (cont'd)

Restore State-Municipal Revenue Sharing, sponsored by Rep. Thom Harnett of Gardiner, proposes to retroactively restore funding for the program at the five percent level as of January 1, 2019.

Finally, LD 444, *An Act To Fully Restore Revenue Sharing*, sponsored by Sen. Shenna Bellows of Kennebec County, restores full funding for the program as of April 1, 2019.

Municipal officials are encouraged to participate by either testifying on the day of the hearing or submitting written comments to the committee clerk, Dianne Dubord, at TAX@legislature.maine.gov. If you have questions about the hearing or the bills, please contact Kate Dufour at 1-800-452-8786 or kdufour@memun.org.

E-911 Mandates – Headed for Study

Last month, the Energy Utilities and Technology Committee held hearings on two bills aimed at E-9-1-1 service quality, but from different directions.

LD 674, *An Act To Improve the E-9-1-1 System*, sponsored by Rep. Tina Riley of Jay who sits on the committee, proposed to expand the mandate of quality assurance protocols to police departments while simultaneously requiring the state to cover a majority of the costs of the new and existing mandates. Alternatively, LD 743, *An Act To Create Local Options in E-9-1-1 Protocol Mandates*, sponsored by Rep. Lydia Blume of York, would examine the costs and effectiveness of the existing fire and EMS protocol mandates.

The hearings were fairly lopsided, with most stakeholders expressing strong opposition to a new police protocol mandate, and near universal support for investigation of the current system and ways the Public Utilities Commission's

Emergency Services Communications Bureau can use some of its near million dollar surplus to alleviate the pressure that the current system is putting on property taxpayer resources.

At the work session held Tuesday of last week, the committee followed Rep. Riley's recommendation to form a stakeholder study with an emphasis on the most effective use of the surcharge funds "to take the weight off of municipalities" who are "really feeling the pinch on this" and determine if it makes sense to implement the police protocols on a voluntary basis.

Refreshingly, during the work session most committee members expressed serious concern with local costs resulting from the software and staff time arising from changes to state law in recent years, backing increased if not full state funding in the future.

The committee opted unanimously to

use LD 674 as the "vehicle" for a formal request to commission the study, helmed by the Bureau and also including legislators, the E-911 Advisory Council, managers of Public Safety Answering Points, representatives of local dispatch centers, law enforcement (police chiefs, sheriffs, and state police), fire chiefs, county commissioners, Maine Emergency Management Association, Maine Emergency Medical Services Board, Maine Ambulance Association, the Maine County Emergency Communications Association, and MMA.

If approved by the full Legislature and Legislative Council, it is expected this study would commence later this year and report back to the committee with recommendations in the second legislative session. If not approved, it is possible stakeholders will meet in the interim without legislator involvement to craft an informal report.

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 1

Appropriations & Financial Affairs
Room 228, State House, 10:00 a.m.
Tel: 287-1635

LD 741 – An Act to Return Surplus Money to Maine Taxpayers.

LD 792 – An Act To Amend the Laws Governing the Issuance of Bonds.

Health & Human Services
Room 209, Cross Building, 10:00 a.m.
Tel: 287-1317

LD 476 – Resolve, To Review the Delivery of Services to the Citizens of the State by the Department of Health and Human Services.

1:00 p.m.

LD 447 – An Act Regarding the Substance Use Disorder Continuum of Care.

Inland Fisheries & Wildlife
Room 206, Cross Building, 9:00 a.m.
Tel: 287-1338

LD 1252 – An Act Regarding Snowmobile Registration Fees.

Labor & Housing
Room 202, Cross Building, 9:00 a.m.
Tel: 287-1331

LD 415 – An Act To Enhance the Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program.

LD 833 – An Act To Provide the Same Retirement Benefits for State Employees Working in Law Enforcement as Are Provided to Law Enforcement Officers.

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

LD 848 – An Act Concerning Disclosure Requirements for Transfers of Properties accessed by Means Other Than a Public Way.

LD 1151 – An Act To Ensure Consistency in Commercial Real Estate Law by Restoring Due Diligence Responsibility to the Buyer.

LD 1280 – An Act To Establish the Maine Buy American and Build Maine Act.

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

LD 1332 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Require State and Congressional Elections To Be Decided by a Plurality of Votes Cast.

Tuesday, April 2

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

LD 786 – An Act To Reduce Hunger and Promote Maine Agriculture.

LD 795 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food.

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LEGISLATIVE HEARINGS (cont.)

LD 1159 – Resolve, To End Hunger in Maine by 2030.

LD 1040 – An Act To Waive the Variance Process for Harvesting Timber in a Shoreland Zone.

Appropriations & Financial Affairs
Room 228, State House, 1:00 p.m.
Tel: 287-1635

LD 16 – An Act To Authorize a General Fund Bond Issue To Invest in Infrastructure To Address Sea Level Rise.

LD 537 – An Act To Authorize a General Fund Bond Issue To Support the Gulf of Maine Research Institute’s Establishment of a Near-shore Coastal Sensor Network.

LD 1224 – An Act To Authorize General Fund Bond Issues To Address Changes in Sea Level, Geospatial Data Acquisition by Communities and the Increase in Ocean Acidity.

Judiciary
Room 438, State House, 1:00 p.m.
Tel: 287-1327

LD 545 – An Act To Ban Child Marriage.

Marine Resources
Room 206, Cross Building, 1:00 p.m.
Tel: 287-1337

LD 1284 – An Act To Create the Science and Policy Advisory Council on the Impact of Climate Change on Maine’s Marine Species.

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

LD 466 – An Act To Create a Diesel Fuel Tax Differential.

LD 851 – Resolve, To Effect Economies of Scale in Maine’s Transportation Funding.

LD 945 – An Act To Establish a Blue Ribbon Commission To Study and Recommend Funding Solutions for the State’s Transportation Systems.

LD 1034 – An Act to Provide Revenue To Fix and Rebuild Maine’s Transportation Infrastructure.

LD 1157 – An Act To Fix Maine’s Roads and Bridges by Establishing a Seasonal Gasoline Tax Adjustment.

Wednesday, April 3

Criminal Justice & Public Safety
Room 436, State House, 1:00 p.m.
Tel: 287-1122

LD 1188 – An Act To Provide Preventive Counseling to Firefighters and Emergency Medical Services’ Persons as Part of Their Training.

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

LD 1248 – Resolve, To Direct the ConnectME Authority To Report on the Progress of the Detailed 2019-2021 Strategic Plan for Broadband Service in Maine.

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

LD 401 – An Act To Preserve State Landfill Capacity and Promote Recycling.

LD 524 – Resolve, Regarding the Promotion of Composting.

LD 603 – An Act To Amend the Laws Governing Funding for Landfill Closure Costs.

LD 988 – An Act To Reduce the Landfilling of Municipal Solid Waste.

Health & Human Services
Room 209, Cross Building, 1:00 p.m.
Tel: 287-1317

LD 227 – An Act To Strengthen Maine’s Public Health Infrastructure.

LD 1297 – An Act To Reduce Youth Cancer Risk.

Labor & Housing
Room 202, Cross Building, 9:00 a.m.
Tel: 287-1331

LD 1232 – An Act To Ensure the Right To Work without Payment of dues or Fees to a Labor Union as a Condition of Employment.

LD 1250 – An Act To Prohibit Sexual Harassment as a Subject Matter of Mandatory Arbitration in Employment Contracts.

LD 1251 – An Act To Make Agricultural Workers and Other Workers Employees under the Wage and Hour Laws.

LD 1319 – An Act To Prohibit Employer Disciplinary Action against Firefighters and Emergency Medical Services Persons Responding to an Emergency.

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

LD 1300 – Resolve, To Transfer the Guilford Butler School Property to the Town of South Thomaston.

LD 1302 – An Act To Remove Vacancy Provisions for Certain Positions in County Government.

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

LD 211 – An Act To Open Maine’s Primaries and Permit Unenrolled Voters To Cast Ballots in Primary Elections.

Thursday, April 4

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

LD 1114 – An Act To Humanely Treat Animals Trapped in Buildings.

LD 1230 – An Act To Update the Civil Animal Welfare Laws.

Friday, April 5

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

LD 550 – An Act To Amend the Definition of “Subdivision” in the Laws Governing Planning and Land Use Regulation for Subdivisions and a Provision Excepting the Division of a New or Existing Structure from Those Laws Beginning July 1, 2018.

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.)

Agriculture, Conservation and Forestry

LD 1114 – An Act To Humanely Treat Animals Trapped in Buildings. (Sponsored by Sen. Deschambault of York Cty.)

This bill adds to the duties assigned the requirement that an animal control officer or law enforcement officer who responds to a report of an animal trapped in a building to attempt to capture and release the animal unharmed unless doing so would pose a threat to public health or safety.

LD 1230 – An Act To Update the Civil Animal Welfare Laws. (Sponsored by Rep. Nadeau of Winslow)

Of greatest municipal significance, this bill requires animal control officers to seize, impound or restrain stray livestock. The municipality is responsible for retaining custody of stray livestock for a period of ten days. The municipality is also responsible for ensuring the proper care of the livestock while confined, including providing proper sustenance, shelter and necessary medical care. After 10 days, ownership of the livestock vests with the municipality or an animal shelter designated by the municipality, and the municipality or designated animal shelter may sell, adopt, give away or humanely euthanize the stray livestock. This bill also amends the civil animal welfare laws in the following ways: 1) it removes the provision regarding registering a dog as a service dog and issuing a tag identifying the dog as a service dog; 2) it clarifies that the dog licensing fee is waived for an owner who produces documentation that the dog is a service dog; 3) it provides for euthanasia of severely sick or severely injured stray livestock authorized by a veterinarian, humane agent, animal control officer or animal shelter; 4) it provides for immunity for a municipality, veterinarian, humane agent, animal control officer and animal shelter in instances involving handling of stray, severely sick or severely injured livestock; 5) it adds to the animal cruelty provisions the violation of intentionally giving an animal a scheduled drug; 6) it increases the penalties for civil violations involving animal cruelty; 7) it makes the violation of a court order involving a civil animal welfare matter a Class D crime; and 8) it repeals provisions related to stray beasts.

LD 1316 – An Act To Make It Explicit That Maine Holds Title to Its Intertidal Lands. (By Request) (Sponsored by Rep. Evangelos of Friendship)

This bill states that the State owns title to intertidal land not already filled to facilitate marine commerce. The State's ownership is based on federal laws and United States Supreme Court cases that establish and substantiate each state's sovereignty over its intertidal and submerged land, as well as state law, which were not adhered to when the Supreme Judicial Court decided a pre-statehood colonial ordinance applicable to Massachusetts governs the state's ownership interest in intertidal land.

LD 1323 – An Act To Revise the Laws Regarding the Public Trust in Intertidal Lands. (Sponsored by Sen. Dow of Lincoln Cty.)

This bill addresses public uses of intertidal land by substantially amending the existing laws on intertidal land. It revises the headnote of the chapter to reflect the recognition of expanded uses of intertidal land. The bill replaces most of the legislative findings and purpose language to recite historic uses and note that the evolving public uses of intertidal land confer both economic and general welfare benefits to the citizens of this State. It specifies that there is no difference in whether the state is acting to discharge its public trust duties with respect to intertidal land or exercising its police power to protect the public health, safety and general welfare. The bill defines "intertidal land," which is consistent with the definition in statute, and "submerged land." The bill delineates permitted uses of intertidal land, identifying historic, recreational and commercial uses. All are subject to state laws and rules, and commercial uses may be subject to licensing, as well. The bill also limits some activities on intertidal land. The bill recognizes

the power of the state and municipal police powers that may be used to improve and facilitate uses of intertidal land.

Appropriations and Financial Affairs

LD 741 – An Act to Return Surplus Money to Maine Taxpayers. (Sponsored by Rep. Hanley of Pittston)

This concept draft bill proposes to return surplus state funds to Maine taxpayers by: (1) placing in the General Fund only the amount necessary to cover the outstanding obligations of the state required by law, such as for bond debt and payment of contracts and salaries; (2) after the transfer of funds required to meet the legal obligations of the state, distributing 75% of the remaining funds to Maine taxpayers on a pro rata basis, based on tax data for the 2018 tax year; and (3) after the transfer and the distributions, transferring the remaining 25% to the Maine Budget Stabilization Fund, also known as the Maine Rainy Day Fund.

LD 1224 – An Act To Authorize General Fund Bond Issues To Address Changes in Sea Level, Geospatial Data Acquisition by Communities and the Increase in Ocean Acidity. (Sponsored by Rep. Devin of Newcastle)

This bill authorizes the issuance of bonds in the following amounts and for the following purposes: 1) in the amount of \$5 million to be used to support improvements to sea level prediction models by providing more detailed mapping of coastal zones and monitoring sea level changes in order to mitigate the impact of and help prepare for rising sea levels; 2) in the amount of \$6 million to be used to provide partnership funds and matching grants for geospatial data acquisition to communities that are creating or improving digital parcel maps to accurately identify existing boundaries and land use, identify potential community development areas and protect environmental resources; and 3) in the amount of \$3 million to be used to collect data, monitor waterways and perform tests related to the known increasing ocean acidity along the Maine coast and its impact on natural wildlife and commercially important species in Maine waters, such as lobsters and clams.

Criminal Justice and Public Safety

LD 1188 – An Act To Provide Preventive Counseling to Firefighters and Emergency Medical Services' Persons as Part of Their Training. (Sponsored by Rep. Griffin of Levant)

This bill requires that firefighter training include preventive and post-trauma counseling, at which a licensed counseling professional or the fire department chaplain must be available to work with the firefighters, as required by the fire chief. The bill provides that, with advice from and in consultation with each regional council and its medical control committee and with the statewide emergency medical services' medical director, the Emergency Medical Services' Board may adopt routine technical rules setting mandatory requirements for preventive and post-trauma counseling for basic and advanced training for emergency medical services' persons for initial licensing and relicensing. The requirements may include the services of a licensed counseling professional or a chaplain to be provided by ambulance services and non-transporting emergency medical services.

LD 1321 – An Act To Amend the Laws Governing the Funding Limitation on County Jails. (Sponsored by Rep. Stanley of Medway)

This bill eliminates the 4% growth limitation cap on county assessments to municipalities to fund county correctional services.

Energy, Utilities & Technology

LD 1248 – Resolve, To Direct the ConnectME Authority To Report on the Progress of the Detailed 2019-2021 Strategic Plan for Broadband Service in Maine. (Sponsored by Rep. Morales of South Portland)

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HOPPER (cont.)

This resolve directs the ConnectME Authority to report to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by January 19th in 2020, 2021 and 2022 outlining the progress of the authority in meeting the goals of its Detailed 2019-2021 Strategic Plan for Broadband Service in Maine.

LD 1371 – An Act To Ensure Nondiscretionary Treatment of Public, Educational and Governmental Access Channels by Cable System Operators. (Sponsored by Sen. Woodsome of York Cty.)

This bill extends cable television service to rural areas by requiring all cable television franchises to provide line extensions with a minimum homes-per-mile requirement not to exceed 15 homes per mile. The bill prohibits automatic franchise renewals beyond the initial term of the franchise renewal period, except for automatic franchise renewals in effect on the effective date of this legislation, which require advance notification of expiration from the cable system operator to the municipality. A cable system operator may not refuse to provide the municipality with required information to complete the renewal process. The bill prohibits a cable system operator from modifying or amending the state’s model franchise agreement without the consent of the municipality as arrived at during negotiations. The bill includes provisions for the use and support of public, educational and governmental access channels and requires that these channels be placed in the same numerical sequence location as the local commercial network broadcast channels. The bill also requires all cable system operators in the state to carry public, educational and governmental access channels on the basic cable or video service offerings or tiers and specifies that the channels may not be separated or moved numerically from other channels carried on the basic cable or video service offerings or tiers without the agreement of the local unit of government or the entity to which the local unit of government has assigned responsibility for managing public, educational and governmental access channels, unless the change is required by federal law. In the event of transfer of the franchise license, the same channel numbers used by the incumbent cable system operator must be retained. The bill provides that any public, educational or governmental access channel that has been moved within the 24 months preceding the effective date of this legislation and without the consent of the originator must be restored within 60 days to its original location and number. The bill requires all cable system operators in the State to work with the local unit of government or the entity to which the local unit of government has assigned responsibility for managing public, educational and governmental access channels to ensure that the signal sent from the point of origination to the cable system operator and delivered to the cable subscriber is of the same quality and format as originally created. A cable system operator is required to set up a toll-free telephone number for requests to resolve a signal quality problem. The bill requires all cable system operators in the state to provide the local unit of government or the entity to which the local unit of government has assigned responsibility for managing public, educational and governmental access channels access to the entity that controls the electronic program guides in the same manner as the local broadcast channels if requested by the local unit of government or the entity to which the local unit of government

has assigned responsibility for managing public, educational and governmental access channels. In addition, if channels are selected through a menu system, public, educational and governmental access channel designations must be displayed in a similar manner as local broadcast channel designations on the electronic program guide are displayed.

Environment and Natural Resources

LD 401 – An Act To Preserve State Landfill Capacity and Promote Recycling. (Sponsored by Rep. Tipping of Orono)

This concept draft bill proposes to enact measures to ensure accurate tracking of the origin and type of waste materials disposed of in Maine, to discourage landfilling of recyclable materials, to preserve landfill capacity at state-owned facilities for Maine-generated materials, and to ensure the rights of host communities and abutters of waste disposal facilities. In order to achieve these goals, the bill proposes to (1) ensure there is accurate tracking and record keeping identifying the origin, amounts and types of materials disposed in waste facilities in the State; (2) ensure waste is effectively tracked from generation point through processing to final disposal point, including the following types of facilities and disposal sites where tracking is required: landfills; landfill leachate discharge sites; incinerator ash and slag disposal sites; and biosolids disposal sites; (3) ensure that waste materials imported from outside the State that are processed at facilities in the State are not classified as Maine-generated waste; (4) ensure that waste materials that end up in a landfill, such as construction and demolition debris, which are used for daily cover in a landfill, are not counted toward the state’s recycling goals; (5) ensure adequate legal standing and strengthen protections for the health and wellbeing of people living in close proximity to waste disposal facilities; and (6) strengthen conflict-of-interest protections in awarding and management and oversight of state waste contracts to prevent price fixing and market manipulation. The bill also directs the Department of Environmental Protection to amend rule Chapter 400, Maine Solid Waste Management Rules to: (1) amend the definition of “bypass” to limit the waste that is considered bypass to solid waste that cannot be disposed of, processed or beneficially used at that facility because of malfunction, insufficient capacity, downtime or inability of the facility to process or burn; (2) amend the definition of “recycle” and “recycling” to add a provision that any material left at a landfill is not considered recycled; and (3) Define “Maine-generated waste” as solid waste that is discarded for the first time 34 within the physical confines of the state.

LD 550 – An Act To Amend the Definition of “Subdivision” in the Laws Governing Planning and Land Use Regulation for Subdivisions and a Provision Excepting the Division of a New or Existing Structure from Those Laws Beginning July 1, 2018. (Sponsored by Sen. Libby of Androscoggin Cty.)

This bill changes the date by which definitions of “subdivision” that are in municipal ordinances and that conflict with state law must comply with the definition of “subdivision” in state law to Jan. 1, 2021. It also extends the time municipalities have to register an ordinance with a conflicting definition with the registry of deeds to June 30, 2020. The bill also removes cross-references to the site location of development laws in an exemption to municipal subdivision review and adds a cross-reference to the law governing municipal site plan review ordinances.

LD 1320 – An Act To Require the Department of Environmental Protection To Provide Natural Resources Protection Act Permits to Affected Municipalities. (Sponsored by Rep. Fay of Raymond)

This bill requires that when the Department of Environmental Protection issues a permit under the Natural Resources Protection Act the department must provide a copy of the entire permit to each municipality in which the proposed activity is to occur.

Health and Human Services

LD 1403 – An Act To Amend the General Assistance Laws

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Legislative Bulletin

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HOPPER (cont.)

Governing Eligibility and Reimbursement. (Sponsored by Rep. Brennan of Portland)

This bill establishes presumptive eligibility for general assistance for persons who are provided shelter at emergency shelters for the homeless. It also reestablishes the 90 percent reimbursement rate for municipalities that incur net general assistance costs in any fiscal year in excess of .0003 percent of that municipality's most recent state valuation. It retains the 70 percent reimbursement rate for other municipalities and Indian tribes for costs below the .0003 percent of all state valuation amount.

Labor and Housing

LD 1251—An Act To Make Agricultural Workers and Other Workers Employees under the Wage and Hour Laws. (Sponsored by Rep. Harnett of Gardiner)

This bill provides that agricultural employees and seasonal employees are subject to the laws that place limits on mandatory overtime. It also provides that agricultural employees are subject to the laws that set a minimum wage and overtime rate. It provides that the laws that set an overtime rate apply to certain activities related to agricultural produce, meat and fish products and perishable foods.

LD 1319—An Act To Prohibit Employer Disciplinary Action against Firefighters and Emergency Medical Services Persons Responding to an Emergency. (Sponsored by Rep. Grohoski of Ellsworth)

Current law protects a firefighter from disciplinary action by an employer when the firefighter is absent from work at the beginning of the work day because the firefighter is responding to an emergency. This bill extends the protection to a firefighter who leaves work during regular working hours to respond to an emergency and provides the

same protections to an emergency medical services person. The bill revises provisions regarding employer notification regarding absences and employee status as a firefighter or emergency medical services person and removes an employer's ability to designate an employee as essential.

Transportation

LD 466—An Act To Create a Diesel Fuel Tax Differential. (Sponsored by Rep. Tepler of Topsham)

This bill imposes an additional 5¢ per gallon fuel tax on diesel fuel and requires that revenue from the tax be used only for construction, reconstruction, maintenance and repair of public highways and bridges. The additional tax is repealed on November 1, 2022. The Commissioner of Transportation is required to submit a report to the joint standing committee of the Legislature having jurisdiction over transportation matters by March 1, 2022 identifying the amount of revenue collected and the purposes for which the revenue was or will be used. The committee is authorized to submit legislation to the Second Regular Session of the 130th Legislature to retain, repeal or amend provisions relating to the diesel fuel tax differential.

LD 1157—An Act To Fix Maine's Roads and Bridges by Establishing a Seasonal Gasoline Tax Adjustment. (Sponsored by Rep. McLean of Gorham)

This bill adjusts the tax imposed on gasoline on a seasonal basis, so that the tax is 27¢ per gallon from November 1st to May 31st and 37¢ per gallon from June 1st to October 31st annually. The current tax rate on gasoline is 30¢ per gallon. This bill also repeals the requirement that an inventory tax be paid on gasoline on hand whenever there is an increase in the tax.