

County Jail Inmate Healthcare Access

After a marathon day of hearings and work sessions on Thursday, the exhausted but enthusiastic members of the Health and Human Services Committee unanimously voted “ought to pass as amended” on LD 761, *An Act To Clarify and Affirm Medicaid Eligibility for Incarcerated Individuals*.

The bill, which was sponsored by Rep. Rachel Talbot Ross of Portland on behalf of the Association’s Legislative Policy Committee, leverages eligibility under Maine’s Medicaid expansion to prevent MaineCare recipients from losing their coverage once they have been detained in a correctional facility for 30 days regardless of adjudication status. Because the Affordable Care Act (ACA) extends Medicaid eligibility to individuals who make less than 138% of the federal poverty level, it is likely that a majority of the state’s prison and jail populations are currently eligible for coverage.

Under current practice, the Maine Department of Health and Human Services only maintains coverage for individuals who have MaineCare as a result of disability or age. The department terminates benefits for those covered by MaineCare for any other reason once that person is detained. The 30 day trigger for terminating benefits applies to anyone, adjudicated or not, once the detention threshold is met. This practice is not required under federal law, leaving property taxpayers who currently fund 100% of inmate healthcare, on the hook for hospital bills that could be covered under the program.

Even though federal law provides coverage only for inmates admitted to a medical facility outside the jail for more than 24 hours, this limited coverage will reduce the enormous county healthcare bill for the most critically ill inmates.

Amendments to the bill were mostly

technical in nature and focused on correcting language to improve the bill, including the ability to apply for coverage while incarcerated and a presumption of eligibility for care received outside the facility once approved. Additionally, Maine Equal Justice Partners (MEJP) asked the committee to add a mechanism allowing for inmates to apply for Supplemental Nutrition Assistance Program benefits once a release date is known. MEJP wants to ensure that those leaving the system have adequate

access to food as they transition back into society as a way of reducing recidivism.

The Association thanks Rep. Rachel Talbot Ross and the stalwart members of the Health and Human Services Committee for their deliberative care and consideration of the positive impacts of LD 761. The bill provides much needed support for strained county healthcare budgets, and gives incarcerated individuals a fighting chance to become productive members of our communities on release.

Governor’s Revenue Sharing Proposal Tax Committee Splits along Party Lines

Revenue Sharing – Budget. On Tuesday, the Taxation Committee finalized its work on the tax related elements of Governor Mills’ proposed FY 2020 – FY 2021 biennial General Fund budget. By a vote of 9 to 3, the committee recommended increasing the amount of state sales and income tax revenue distributed via the state/municipal revenue sharing program from the current 2% level to 5% in FY 2020 and subsequent years, as required by state statute. Governor Mills’ proposal increases the revenue sharing distribution to 2.5% in FY 2020 and to 3% in FY 2021.

Members of the committee supporting the increase believe it is time for the Legislature to honor the promises made to municipalities, help foster local economic development efforts and financially assist communities with delivering state mandated programs and services. Members of the committee supporting the governor’s recommendation called into question the likelihood that municipalities would use the increased revenue to reduce property taxpayer burdens and found it irresponsible to shift the task of determining how to fund the proposed increases in revenue

sharing to the Appropriations Committee.

It will be several weeks before we learn how much revenue sharing funding will be included in the appropriators’ amended budget (LD 1001). Please stay tuned.

Revenue Sharing – Legislation. On that note, the Taxation Committee will hold a public hearing next Tuesday, April 9 at 1:30 p.m. on four separate revenue sharing bills (see Page 4). The bills, which were described in the March 29 edition of this publication, in one way or another, retroactively increase and protect funding for the program. Municipal officials are urged to take this second opportunity to let their voices be heard and participate in Tuesday’s hearing. For more information, please contact Kate Dufour at kdufour@memun.org or 1-800-452-8786.

Local Option Sales Tax. At its first work session on five proposed local option sales tax bills described in last week’s Legislative Bulletin, the committee winnowed the list down to two by voting “ought not to pass” on LD 65, *An Act To Allow Municipalities To Impose A Seasonal or Year-round Local Option Sales*

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Tax, LD 156, An Act To Allow Regional Service Center Municipalities to Assess an Additional One Percent Sales Tax for Infrastructure Costs, and LD 1110, An Act to Establish a Local Option for Sales Tax.

The committee also tabled further discussion on the two remaining bills, LD 609, *An Act To Provide Municipalities Additional Sales Tax Revenue from Lodging Sales*, and LD 1254, *An Act To Authorize a Local Option Sales Tax on Meals and Lodging and Provide Funding To Treat Opioid Use Disorder*, pending the Attorney General's (AG) determination of the constitutionality of a local option sales tax, which was raised in the Department of Administration and Financial Services' testimony on the bills.

The specific question to the AG is whether the requested sales tax authority conflicts with either: (1) Article IX, Section 9 of Maine's Constitution, providing that the "Legislature shall never, in any manner, suspend or surrender the power of taxation" or (2) the June 2018 U.S. Supreme Court decision on *South Dakota v. Wayfair, Inc. et. al.*, which the department testified "stressed the Constitutional importance of a simple tax system when imposing sales tax on remote sellers." The committee is also asking the AG to determine whether municipalities are currently authorized to assess a local sales tax.

Farm Machinery Exemption. The committee unanimously voted to support an amended version of LD 241, *An Act To Adjust the Personal Property Tax Exemption for Farm Machinery*. As proposed, the bill increases the value of the exemption on farm machinery used solely for the production of hay and field crops from the current \$10,000 to \$45,000. Although the state is required to reimburse municipalities for 50% of the lost property tax revenue, the committee's amendment provides 100% reimbursement, which Maine Revenue Services projects to be \$500,000 to \$1 million annually. The bill also includes funding for 90% of the increase in municipal level administrative costs.

Excise Tax on Water Drilling Equipment. By a unanimous vote, the committee supported an amended version of LD 873, *An Act To Limit Registration Fees on Water Well Drilling Equipment To Encourage Purchasing Modern Equipment for Rural*

Well Construction. Currently, the motor vehicle excise tax paid on well drilling vehicles is based on the retail price of the truck as well as all the attached equipment. Under the terms of the committee's amendment, only the truck is subject to the excise tax, while the equipment is subject to the property tax. The amendment also clarifies that the well drilling equipment is eligible for enrollment in the Business Equipment Tax Exemption (BETE) program. Because the municipal mill rate is likely much higher than the excise tax rate, even if well drilling equipment is enrolled in BETE, municipalities stand to collect more tax revenues under the proposed change than they currently do. The bill also includes funding for 90% of the increase in municipal level administrative costs.

Motor Vehicle Excise Tax. Three bills seeking to amend the way motor vehicle excise tax revenue is collected and expended received unanimous "ought not to pass" votes from the members of the committee. The bills included LD 118, *An Act To Direct Vehicle Excise Tax Revenue*

for Local Transportation Infrastructure, LD 119, *An Act To Base the Motor Vehicle Excise Tax on the Sale Price*, and LD 1031, *An Act To Base the Vehicle and Mobile Home Excise Tax on the Actual Value*.

Local Option Personal Property Tax. Based on the Attorney General's opinion that allowing municipalities to opt out of assessing and collecting personal property taxes violates Article IX, Section 9 of Maine's Constitution, described earlier in this article, as well as Section 8, which requires that all "taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to the just value thereof," the committee unanimously voted "ought not to pass" on LD 824, *An Act To Allow a Municipality To Opt Out of Collecting Personal Property and Business Equipment Taxes*.

It is clear that the Taxation Committee is taking into consideration the concerns raised by municipal leaders and the burdens placed on property taxpayers. These efforts are greatly appreciated.

Jail Funding Study

After hearing six different pieces of legislation seeking to address the perennial shortage in county jail funding, the members of the Criminal Justice and Public Safety Committee opted to undertake a summer study of the issue and voted to carry over into the next session LD 973, *An Act To Stabilize County Corrections*, sponsored by Rep. Charlotte Warren of Hallowell. Hoping to present a single comprehensive funding approach, the committee also voted "ought not to pass" on five other jail funding bills with a commitment to review each of the proposals as part of the summer study.

Although work groups and committee studies on county jail funding are nothing new, the approach envisioned by the committee replaces the traditional process of directing a group of interested parties to develop a solution for an identified problem and present its findings to the Legislature for consideration and possible implementation. Instead, the committee will take on responsibility for the bulk

of the work, while engaging stakeholders throughout the process. Rep. Warren believes this approach will "cut out the middle men and women by all doing the work together," allowing legislators to be part of the conversations at every stage. She also stressed the importance of approaching this work carefully and deliberately and the need to keep in mind the impacts on all stakeholders and taxpayers.

The study stakeholder list identified by the committee includes the Maine County Commissioners' Association, Maine Sheriffs' Association, Maine Department of Corrections, and Maine Municipal Association.

Rep. Patrick Corey of Windham asked that the stakeholder membership be expanded to include the Maine Chiefs of Police Association and representatives from the judicial branch. In his view, local law enforcement is driving increasing incarceration rates and associated costs, which are placing the largest burdens on

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Workers' Compensation Law Under Scrutiny

In the coming weeks, the members of the Labor and Housing Committee will debate the merits of several bills aimed at amending the state's workers' compensation laws, which serve to protect the interests of employers and employees, in roughly equal fashion, when claims of workplace injury arise. What follows are descriptions of the most municipally troubling workers' compensation bills being advanced this year, four of which will receive public hearings on Monday, April 8 at 9 a.m. If enacted, the bills will place the employer community at a disadvantage and add costs to the workers' compensation system.

Municipal officials concerned with the impacts of these bills are urged to contact their House and Senate members, as well as members of the Labor and Housing Committee. A list of committee members and contact information is posted on the Legislature's website. If you have questions about these bills or are interested in receiving information on other workers' compensation bills of municipal significance, please contact Ann Willette, Risk Management Services Claim Manager, at either 1-800-590-5583 or awillette@memun.org.

LD 600, *An Act To Achieve Mental Health Parity in Workers' Compensation*, makes it easier for an employee to establish a mental health injury by amending the standard of proof from "clear and convincing" to "preponderance of the evidence." The bill also provides that if a work-related injury aggravates a preexisting mental health injury, a compensatory disability may result, as is the case with an aggravation of a preexisting physical injury. This bill received a public hearing on March 4. A work session has not been scheduled.

LD 601, *An Act To Create Fairness by Reinstating the Cost-of-living Adjustment for Workers' Compensation Benefits*, reinstates yearly cost-of-living adjustments for workers' compensation benefits, both total and partial, beginning on the third anniversary of the injury. The proposed adjustment is equal to the percentage increase or decrease in the state average weekly wage for the previous year or 5%, whichever is less. This bill received a public hearing on March 4.

A work session has not been scheduled.

Under current law, if an employee who is partially incapacitated due to a workplace injury is not working and can demonstrate that lack of employment is due to the sustained injury, the employee may be eligible for the 100% partial incapacity benefit. LD 758, *An Act To Clarify Work Search Requirements for Workers' Compensation*, amends existing law to create a presumption that a partially injured worker is eligible for 100% partial incapacity benefit if the employee cannot find employment. The employee's previous employer can rebut the presumption, but only by demonstrating that there is suitable employment available in the injured employee's community. This bill received a public hearing on March 6. A work session has not been scheduled.

Under existing law a retired employee can rebut the presumption of ineligibility for lost time benefits by showing that active employment was terminated because of a work-related disability. As proposed, LD 1203, *An Act To Clarify the Retirement Presumption under the Maine Workers' Compensation Act of 1992*, requires the employee to only show that the inability to perform work was "in part" due to a work-related injury. A public hearing on this bill is scheduled for Monday, April 8 at 9:00 a.m. in room 202 of the Cross Office Building.

Currently, the benefits paid under the workers' compensation law is capped at the higher of the maximum amount set in statute and a percentage of the state average weekly wage. LD 1204, *An Act To Eliminate the Cap on Weekly Benefits in Workers' Compensation Cases*, as the bill's title suggests, retroactively eliminates the cap on weekly benefits. If enacted, Maine will be the only state in the nation without a cap. A public hearing on this bill is scheduled for Monday, April 8 at 9:00 a.m. in room 202 of the Cross Office Building.

LD 1205, *An Act To Allow Full Retirement Benefits under the Maine Workers' Compensation Act of 1992*, repeals elements of existing law that require an employer to offset an individual's workers' compensation benefit by the value of other retirement or pension benefits received by the injured employee. This bill also prohibits an employer from taking a

credit for past overpayments by reducing ongoing payments, thereby addressing the Maine Supreme Judicial Court's ruling last year in *Urrutia v. Interstate Brands International* (2018 ME 24, 179 A.3d 312). A public hearing on this bill is scheduled for Monday, April 8 at 9:00 a.m. in room 202 of the Cross Office Building.

LD 1385, *An Act to Amend the Laws Governing Corrections Officers Who Suffer Certain Injuries, Impairments or Medical Conditions*, provides a supplemental benefit to a correctional officer injured by a patient or prisoner of the facility where the officer is employed, provided the officer qualifies for workers' compensation benefits. The supplemental benefit cannot be used to offset sick leave and is intended to make up for the difference between the allowable compensation benefit and the employee's regular salary. The bill also creates a rebuttable presumption that the diagnoses of an infectious disease, heart disease or hypertension is job related. A public hearing on this bill is scheduled for Monday, April 8 at 9:00 a.m. in room 202 of the Cross Office Building.

Jail Funding (cont'd)

county jails. Rep. Corey believes funding problems center on how law enforcement agencies utilize jails, drawing from a 2006 pretrial case processing study conducted by Luminosity Inc. for the Maine Corrections Alternative Advisory Committee. This report found that service center communities, where most county jails are located, are more likely to bring individuals to jail instead of issuing summons to appear in court, than smaller adjacent police agencies, that must leave their communities without police coverage to transport an individual to jail.

The issuing of summons in lieu of arrests when appropriate could reduce county incarceration for non-violent crimes such as shoplifting, petty theft, and traffic crimes. However, service center communities encounter a much higher transient population of individuals with mental health and substance use disorders and these individuals comprise the vast majority of the current county jail population. Additionally, mandatory minimums,

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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 8

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

LD 1321 – An Act To Amend the Laws Governing the Funding Limitation on County Jails.

LD 1375 – An Act To Prevent Law Enforcement Officers from Using Their Authority To Extract Sexual Favors.

1:00 p.m.

LD 1090 – An Act To Update the Criminal Animal Welfare Laws.

Education & Cultural Affairs
Room 208, Cross Building, 1:00 p.m.
Tel: 287-3125

LD 318 – An Act To Prepare All Students for Work and Life by Requiring That Students Receive Instruction in Vocational Preparation and Practical Life Skills.

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

LD 298 – An Act To Establish a Conditional Presumption of Compensability for Corrections Employees in Cases of Impairment from Hypertension or Heart Disease.

LD 580 – An Act To Improve the Advocate Program Established by the Workers' Compensation Board.

LD 1203 – An Act To Clarify the Retirement Presumption under the Maine Workers' Compensation Act of 1992.

LD 1204 – An Act To Eliminate the Cap on Weekly Benefits in Workers' Compensation Cases.

LD 1205 – An Act To Allow Full Retirement Benefits under the Maine Workers' Compensation Act of 1992.

LD 1253 – An Act To Fairly Compensate for Fatal Accidents under the Maine Workers' Compensation Act of 1992.

LD 1385 – An Act To Amend the Laws Governing Corrections Officers Who Suffer Certain Injuries, Impairments or Medical Conditions.

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

LD 1357 – An Act Regarding State Licensure for the Sale of Spirits for Off-premises Consumption.

LD 1372 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Ensure That Voting Rights Belong Only to Citizens in Municipal or Other Local Elections.

LD 1437 – RESOLUTION, Proposing an Amendment to the Constitution of Maine Concerning Alternative Signatures Made by Persons with Disabilities.

LD 1438 – An Act To Clarify the Intent of Referendum Questions for Voters.

Tuesday, April 9

Education & Cultural Affairs
Room 208, Cross Building, 1:00 p.m.
Tel: 287-3125

LD 1341 – An Act To Provide Flexibility for Efficient and Effective

Management of School Management and Leadership Centers.

Taxation
Room 127, State House, 1:30 p.m.
Tel: 287-1552

LD 133 – An Act To Fully Restore State-Municipal Revenue Sharing for Fiscal Year 2018-19.

LD 193 – An Act To Fully Fund and Restore State-Municipal Revenue Sharing.

LD 444 – An Act To Fully Restore Revenue Sharing.

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.

Wednesday, April 10

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

LD 1408 – An Act To Allow Law Enforcement Officers To Wear Insignia on Their Uniforms To Indicate That They Are Veterans.

Education & Cultural Affairs
Room 208, Cross Building, 1:00 p.m.
Tel: 287-3125

LD 1396 – An Act To Update Laws Governing the Regional Library Systems.

Energy, Utilities & Technology
Room 211, Cross Building, 8:00 a.m.
Tel: 287-4143

LD 1299 – An Act To Incentivize Municipalities, State Agencies, Colleges and Universities To Use Electric Vehicles.

LD 1364 – An Act Regarding Net Neutrality and Internet Policy.

LD 1371 – An Act To Ensure Nondiscretionary Treatment of Public, Educational and Governmental Access Channels by Cable System Operators.

LD 1401 – An Act To Study Transmission Solutions To Enable Renewable Energy Investment in the State.

1:00 p.m.

LD 1363 – An Act Regarding Energy Transmission Corridors.

LD 1383 – An Act To Amend Maine's Municipal Land Use and Eminent Domain Laws Regarding Transmission and Distribution Utilities.

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

LD 197 – An Act To Convene a Working Group To Authorize a Public Trust for Maine's Groundwater and To Impose a 2-year Moratorium on Large-scale Groundwater Extraction.

LD 413 – An Act To Ensure the Rights of Citizens to Groundwater in the State.

LD 1121 – An Act To Acknowledge Potable Water as a Necessity.

LD 1358 – An Act To Further the Public Interest in All Maine Waters.

LD 1474 – An Act To Ensure Water Equity and Accountability for the People of the State.

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LEGISLATIVE HEARINGS (cont.)

Judiciary

Room 438, State House, 9:00 a.m.

Tel: 287-1327

LD 492 – An Act To Extend from 6 Months to One Year the Notice Period Required under the Maine Tort Claims Act.

LD 868 – An Act To Require That the Terms of a Settlement to Which a Local Unit of Government Is a Party Be Made Available to the Public.

LD 1091 – An Act Regarding the Personal Liability of Government Employees.

LD 1219 – An Act To Establish an Independent Board To Review Law Enforcement Officer-involved Deaths.

Labor & Housing

Room 202, Cross Building, 9:00 a.m.

Tel: 287-1331

LD 1345 – An Act To Ensure a Fair Workweek.

State & Local Government

Room 214, Cross Building, 9:00 a.m.

Tel: 287-1330

LD 1393 – An Act to Change the Requirements for Recording Plans at the County Registries of Deeds.

LD 1394 – Resolve, To Direct the Department of Administrative and Financial Services To Conduct a Surplus Property Inventory.

LD 1415 – An Act To Improve the Laws Regarding Discontinued and Abandoned Roads.

Taxation

Room 127, State House, 10:00 a.m.

Tel: 287-1552

LD 529 – An Act To Provide Property Tax Deferral for Senior Citizens and People with Physical Disabilities.

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.

LD 682 – An Act To Provide Seniors and Certain Persons with Disabilities Assistance with Property Taxes through the Deferral of Those Taxes.

LD 751 – An Act To Reinstate the State Property tax Deferral Program of Maine’s Senior Homeowners.

LD 812 – An Act To Stabilize Property Taxes on Homesteads of Individuals Who Are 66 Years of Age or Older.

LD 1145 – An Act To Improve the Law Authorizing Municipalities To Allow Low-income Seniors To Defer Payment of Municipal Property Taxes.

Veterans & Legal Affairs

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

Tel: 287-1310

LD 1196 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Implement Ranked-choice Voting.

LD 1213 – An Act To Repeal the Ranked-choice Voting Law.

LD 1447 – An Act To Simplify Voting in Maine by Placing a Moratorium on Ranked-choice Voting.

LD 1454 – An Act Concerning Elections in Maine Congressional Districts.

LD 1477 – RESOLUTION, Proposing an Amendment to the Constitution

of Maine To Facilitate the Use of Ranked-choice Voting for Governor and Members of the Legislature.

Thursday, April 11

Agriculture, Conservation & Forestry

Room 214, Cross Building, 1:00 p.m.

Tel: 287-1312

LD 1316 – An Act To Make It Explicit That Maine Holds Title to Its Intertidal Lands.

LD 1323 – An Act To Revise the Laws Regarding the Public Trust in Intertidal Lands.

Environment & Natural Resources

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

Tel: 287-4149

LD 1287 – An Act To Protect the Penobscot River and Penobscot Bay from Mercury Contamination.

LD 1320 – An Act To Require the Department of Environmental Protection To Provide Natural Resources Protection Act Permits to Affected Municipalities.

Taxation

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

Tel: 287-1552

LD 335 – An Act To Require the State To Distribute 25 Percent of Adult Use Marijuana Retail Sales and Excise Tax Revenue to Generating Municipalities.

LD 1076 – An Act To Account for Market Change in the Adult Use Marijuana Excise Tax.

Transportation

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

Tel: 287-4148

LD 165 – An Act To Prohibit the Use of Handheld Phones and Devices While Driving.

LD 280 – An Act to Improve Public Safety by Restricting the Use of Distracting Electronic Devices While Operating a Motor Vehicle.

Friday, April 12

Criminal Justice & Public Safety

Room 436, State House, 9:00 a.m.

Tel: 287-1122

LD 1096 – An Act To Require That Comprehensive Substance Use Disorder Treatment Be Made Available to Maine’s Incarcerated Population.

LD 1210 – Resolve, To Direct the Commissioner of Corrections To Study Changes in Corrections Practices and Reinvestment in Corrections Resources To Reduce Recidivism and Control Correctional Facility Costs.

Health & Human Services

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

Tel: 287-1317

LD 459 – An Act To Include Homelessness in the Laws Governing Emergency General Assistance.

LD 1403 – An Act To Amend the General Assistance Laws Governing Eligibility and Reimbursement.

LD 1404 – Resolve, To Require the Department of Health and Human Services To Request a Waiver Relating to Support Services and To Provide Funds To Prevent Homelessness.

IN THE HOPPER

Education and Cultural Affairs

LD 1341 – An Act To Provide Flexibility for Efficient and Effective Management of School Management and Leadership Centers. (Sponsored by Rep. Kornfield of Bangor)

This bill amends the Maine Revised Statutes, Title 20-A, chapter 123, regarding school management and leadership centers, and related laws to change the term “school management and leadership center” to the term “regional service center.” It amends the law governing the geographic boundaries of centers to remove the requirement that the Commissioner of Education must determine 9 to 12 geographic areas for the establishment of centers with the requirement that the commissioner must determine the geographic areas for the establishment of centers. It also amends the law governing school management and leadership centers to allow a center to contract for leadership services and hire a fiscal agent. It changes the law allowing a center to borrow funds by removing language requiring debts to be repaid within one year and limiting amounts borrowed to 3/4 of a center’s annual approved budget. It amends the law governing the withdrawal of a member school administrative unit from a center to replace the requirement that the member school administrative unit must demonstrate there will be no increases in costs or decrease in student programs or services with the requirement that the member school administrative unit must demonstrate that the withdrawal is in the best interests of the withdrawing school administrative unit and of any of the remaining member school administrative units. It amends the law governing dissolution of centers to replace the requirement that member school administrative units must demonstrate to 3 the Commissioner of Education that there will be no increase in costs or decrease in student programs and services for any of the member school administrative units of a center with the requirement that the school administrative units must demonstrate that it is in the best interests of the member school administrative units to dissolve the center. It amends the law governing application for and approval of a center to replace voter approval with school board approval. It amends the law governing state funding of a center that provides at least 2 different services to its members to include 55% funding support for contracted leadership services and financial software.

Energy, Utilities & Technology

LD 1299 – An Act To Incentivize Municipalities, State Agencies, Colleges and Universities To Use Electric Vehicles. (Sponsored by Rep. Ingwersen of Arundel)

This bill requires the Efficiency Maine Trust to develop a program to provide grants to municipalities, state agencies, colleges and universities to support the purchase of charging stations for electric vehicles and the purchase of electric vehicles.

LD 1363 – An Act Regarding Energy Transmission Corridors. (Emergency) (Sponsored by Rep. Berry of Bowdoinham)

This bill establishes two conditions for the issuing of a “certificate of public convenience and necessity” by the Public Utilities Commission for a high-impact electric transmission line (i.e., the type that is being negotiated to bring hydroelectric power from Canada to Massachusetts). The first condition is that the commission find significant tangible public benefits will result from the construction and use of the line. The second condition is that all municipalities through which the high-impact electric transmission line will pass hold a referendum and certify to the commission that a majority of votes cast were in favor of the construction of the line through that municipality.

LD 1364 – An Act Regarding Net Neutrality and Internet Policy. (Sponsored by Rep. Grohoski of Ellsworth)

This bill prohibits a state agency or instrumentality from committing state funds in a manner that the agency or instrumentality knows would result in a direct payment to an internet service provider unless the service provider agrees in writing to conform to the net neutrality requirements of the Federal Communications Commission order, FCC 15-24, adopted on February 26, 2015, known as the Open Internet Order.

LD 1383 – An Act To Amend Maine’s Municipal Land Use and

Eminent Domain Laws Regarding Transmission and Distribution Utilities. (Sponsored by Rep. Grignon of Athens)

This bill requires a transmission and distribution utility, prior to taking land or an easement by eminent domain, to obtain the approval of the body of government having jurisdiction over the land or easement. Following approval by the body of government, the transmission and distribution utility is still required to obtain a certificate of public convenience and necessity from the Public Utilities Commission. The bill makes explicit that the exemption from municipal zoning ordinances regarding real estate used by public utilities does not apply to an elective transmission upgrade, which is a transmission line for which a person developing the transmission line has agreed to pay all of the costs of developing the transmission line without passing those costs on to ratepayers.

Environment and Natural Resources

LD 1121 – An Act To Acknowledge Potable Water as a Necessity. (Sponsored by Sen. Chenette of York Cty.)

This bill adds potable water to lists of necessities in the laws governing profiteering in necessities, municipal general assistance and supplies for jails.

LD 1358 – An Act To Further the Public Interest in All Maine Waters. (Sponsored by Rep. Gramlich of Old Orchard Beach)

This bill explicitly states the State’s authority and responsibility over all waters in the state, whether above or below ground, and directs the state to protect, conserve and manage the water in the interest of present and future generations.

LD 1474 – An Act To Ensure Water Equity and Accountability for the People of the State. (Sponsored by Rep. Hickman of Winthrop)

This bill requires certain governmental entities, including municipal and quasi-municipal water utilities, when issuing permits or licenses and setting rates to evaluate the negative externalities resulting from unique uses of water, such as the bulk exportation of water out of a region. The rates assessed for bulk exports that result in the inability to provide public health, safety, and comfort to the residents of a municipal or quasi-municipal districts must be approved by the municipal legislative bodies located within the impacted watershed. The contracts established for exporting bulk water out of a local watershed must also be approved by the municipal legislative bodies within the watershed. The bill also requires assessors, in the determination of the assessed value of a property, to consider any economic benefit or inequity resulting from restrictions placed on the use of the land that are associated with bulk water withdrawal and transport.

Judiciary

LD 868 – An Act To Require That the Terms of a Settlement to Which a Local Unit of Government Is a Party Be Made Available to the Public. (Sponsored by Rep. Verow of Brewer)

This bill provides that the terms of a settlement of a claim against a county or municipality, including a payment by an insurer of the county or municipality, are a public record.

LD 1091 – An Act Regarding the Personal Liability of Government Employees. (Sponsored by Sen. Lawrence of York Cty.)

Current law provides that the personal liability of an employee of a governmental entity for negligent acts or omissions within the course and scope of employment is subject to a limit of \$10,000. This bill provides an exception to this limit for an employee who is covered by liability insurance covering the negligent acts or omissions, in which case the limit is equal to the limits of the policy.

LD 1219 – An Act To Establish an Independent Board To Review Law Enforcement Officer-involved Deaths. (Sponsored by Rep. Evangelos of Friendship)

This bill establishes the Independent Board To Review Law Enforcement Officer-involved Deaths to review investigations by law enforcement agencies concerning deaths involving law enforcement

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HOPPER (cont.)

officers and to issue recommendations to the prosecuting attorneys or Attorney General. The board consists of 7 members appointed to 3-year terms, and members of the board are conferred immunity in performing their duties on the board, except when the plaintiff is the state. The bill requires the board to issue a public report of its findings and conclusions for every officer-involved death in the state.

Labor and Housing

LD 1203 – An Act To Clarify the Retirement Presumption under the Maine Workers’ Compensation Act of 1992. (Sponsored by Rep. Sylvester of Portland)

Once an individual receiving workers’ compensation benefits retires and is receiving retirement benefits, there is a presumption that the individual is no longer eligible for workers’ compensation benefits related to loss of earnings or earning capacity. Under current law, this presumption may be rebutted by evidence that the individual is unable to perform suitable work because of the work-related disability. This bill lowers the evidentiary burden on the retired individual collecting workers’ compensation benefits by providing that evidence that the individual’s retirement was due at least in part to a work-related disability is sufficient to continue eligibility for workers’ compensation benefits related to loss of earnings or earning capacity.

LD 1204 – An Act To Eliminate the Cap on Weekly Benefits in Workers’ Compensation Cases. (Sponsored by Rep. Sylvester of Portland)

Current law caps the weekly benefit payable under the laws governing workers’ compensation to a maximum amount set in statute or a percentage of the state average weekly wage, whichever is higher. This bill eliminates the cap on the weekly benefits.

LD 1205 – An Act To Allow Full Retirement Benefits under the Maine Workers’ Compensation Act of 1992. (Sponsored by Rep. Sylvester of Portland)

This bill strikes the provisions of law that require an employer to offset an individual’s workers’ compensation benefits based on retirement or pension benefits being received by that individual. It also clarifies the law to avoid the interpretation of the Maine Supreme Court in *Urrutia v. Interstate Brands International*, 2018 ME 24, 179 A.3d 312, which allowed an employer to take a credit for past overpayments, due to the employer’s failure to take an allowable offset of benefits, by reducing the employer’s ongoing payments of workers’ compensation benefits.

LD 1253 – An Act To Fairly Compensate for Fatal Accidents under the Maine Workers’ Compensation Act of 1992. (Sponsored by Rep. Sylvester of Portland)

Current law limits to 500 weeks the duration of death benefits under the laws governing workers’ compensation. This bill removes the 500-week cap.

LD 1385 – An Act To Amend the Laws Governing Corrections Officers Who Suffer Certain Injuries, Impairments or Medical Conditions. (Sponsored by Sen. Deschambault of York Cty.)

This bill makes the following changes to the laws governing corrections officers. It provides a supplemental benefit paid to a corrections officer who is injured by the acts of a patient or prisoner of the jail, prison or state correctional facility where the corrections officer works if the injury qualifies the corrections officer for workers’ compensation benefits. It amends the workers’ compensation laws by including a rebuttable presumption that a condition of impairment of health caused by an infectious disease resulting in total or partial disability or death of a corrections officer is presumed to have been suffered in the line of duty, unless it is shown otherwise. It amends the workers’ compensation laws by including a rebuttable presumption that heart disease or hypertension suffered by a corrections officer was caused in the course of employment as a corrections officer.

State and Local Government

LD 1415 – An Act To Improve the Laws Regarding Discontinued

and Abandoned Roads. (Sponsored by Rep. Nadeau of Winslow)

Under current law, a presumption of abandonment exists if a municipality fails for a period of 30 or more years to keep a way passable for the use of motor vehicles at the expense of the municipality. This bill eliminates that presumption for ways that have not met that statutory requirement by January 1, 2020 and instead specifies that the only process that a municipality may use to terminate its interests in a public way is through the discontinuance process. This bill also amends the filing required by the clerk of a municipality following the determination of discontinuance by abandonment of a town way to require that the record filed with the registry of deeds include the evidence used by the municipality to make the determination of abandonment and the effective date of that determination of abandonment.

Taxation

LD 529 – An Act To Provide Property Tax Deferral for Senior Citizens and People with Physical Disabilities. (Sponsored by Rep. Cooper of Yarmouth)

This bill reinstates the state’s property tax deferral program, which was in effect for applications filed before April 1, 1991. The bill modifies the program to include households with at least one individual who is 65 years of age or older or who retired from gainful employment due to physical disability and to surviving spouses who are at least 60 years of age and provides that household income must be less than \$40,000. This limit is indexed for inflation in 2020 and annually thereafter. The bill also limits the total amount of property taxes that a taxpayer may defer to 80% of the taxpayer’s equity in the property and requires the Finance Authority of Maine to establish a loan program to ensure adequate funding of reimbursements to municipalities.

LD 682 – An Act To Provide Seniors and Certain Persons with Disabilities Assistance with Property Taxes through the Deferral of Those Taxes. (Sponsored by Rep. Bailey of Saco)

This bill reinstates the state’s property tax deferral program, which was in effect for applications filed before April 1, 1991. The bill modifies the program to include households with at least one individual who is 65 years of age or older or who is unable to continue employment due to disability and to surviving spouses who are at least 60 years of age or who are unable to continue employment due to disability and provides that income must be less than \$40,000. This income limit is indexed for inflation in 2021 and annually thereafter. The bill also changes the rate of accrual of interest on deferred property taxes from 6% to the prime rate published in the *Wall Street Journal* rounded up to the next whole percent minus one percentage point. The bill adds a maximum liquid asset standard for eligibility of property owners and provides that property may not be subject to deferral under both the state deferral program and a municipal deferral program.

LD 812 – An Act To Stabilize Property Taxes on Homesteads of Individuals Who Are 66 Years of Age or Older. (Sponsored by Sen. Chenette of York Cty.)

This bill permits a municipality to cap the property tax on the homestead of a permanent resident who is at least 66 years of age or older at the amount billed in the year prior to an application for stabilization. The amount by which the tax assessed exceeds the capped amount must be paid to the municipality by the state. An applicant for a capped tax assessment must be a permanent resident of the state and must have received a property tax fairness credit for the income tax year preceding the application. An application for a capped tax assessment must be made each year to continue eligibility.

LD 1145 – An Act To Improve the Law Authorizing Municipalities To Allow Low-income Seniors To Defer Payment of Municipal Property Taxes. (Sponsored by Rep. Cooper of Yarmouth)

This bill lowers from 70 years of age to 65 years of age the age of eligibility for municipal property tax deferral programs for homesteads of low-income seniors and requires the State to reimburse municipalities for the taxes deferred. The state acquires a lien on the property for the

(continued on back page)

HOPPER (cont.)

amount of taxes deferred plus interest.

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. Moore of Washington Cty.)

For the purpose of reducing the burden placed on the property tax to finance municipal services, this resolution proposes an amendment to the Constitution of Maine to require that not less than 5% of state sales and income tax revenue be distributed to municipalities.

Veterans and Legal Affairs

LD 1357 – An Act Regarding State Licensure for the Sale of Spirits for Off-premises Consumption. (Sponsored by Rep. Fecteau of Biddeford)

This bill amends the law regarding the number of agency liquor stores allowed in a municipality from the number being determined based upon the population of the municipality to being determined by the municipality, with existing agency liquor store licenses grandfathered if the municipality authorizes a number of agency liquor stores less than the number of operating liquor stores previously licensed by the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations or the municipality does not make a determination. This bill also requires an applicant for an agency liquor store license to be a business licensed in the municipality in which the agency liquor store will be located that has been in existence for at least the three years immediately prior to application and that has been in good standing with every agency of the state for the three years immediately prior to application.

LD 1372 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Ensure That Voting Rights Belong Only

to Citizens in Municipal or Other Local Elections. (Sponsored by Rep. Wadsworth of Hiram)

This resolution proposes to amend Maine's Constitution to specify that only a person who is a citizen of the United States may vote in a municipal or other local election.

Jail Funding (cont'd)

pre-trial detention, and probation holds remove discretion for law enforcement and county officials when making detention decisions.

Whatever the summer effort brings, MMA and other stakeholders are committed to finding a solution that protects public safety and balances the need to provide adequate resources for county officials to carry out their state mandated duties with budget accountability measures that protect the property taxpayers.

Legislative Bulletin

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