

A Successful Legislative Session

The tone in Augusta improved, municipal leaders were treated as allies and property tax relief advanced. Above all, local officials advocated effectively.

By Kate Dufour, Director
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The legislative session that came to an end on June 19 was conducted in a fair and civil manner, with partisan politics, more often than not, taking a backseat to informed decision making and the adoption of good public policy. For the first time in over a decade, municipal government and its leaders were viewed as valued allies in the process of providing services to common constituencies.

Without a doubt, the biggest success of the session came in the form of property tax relief.

At long last, the Legislature renewed its commitment to the State/Municipal Revenue Sharing Program by increasing the portion of state sales and income tax revenue shared with communities from 2% to 3% in the current fiscal year and to 3.75% in FY 2021.

The Legislature voted to increase, as of April 1, 2020, the homestead exemption to \$25,000 and reimburse municipalities for 70% of the lost property tax revenue, thereby funding 100% of the \$5,000 exemption increase. Not only will these changes provide meaningful property tax relief, but by funding 100% of the increased exemption, the Legislature is acknowledging that a less than fully reimbursed property tax exemption shifts additional burdens onto all property owners, including those targeted for relief.

The Legislature also supported a measure to use the surplus revenue funneled into the Tax Relief Fund for Maine Residents to help offset the property taxes paid by Maine homesteaders. Under the terms of the law, if fund revenue is sufficient to provide each Maine homesteader at least \$100 in property tax relief, the State Treasurer, with information provided by municipal assessors, is directed to mail out rebate checks.

The reasons for these successes are plentiful.

Governor Janet Mills' administration displayed an interest in working with local government leaders from day one. Her proposed two-year budget included increased funding for the State/Municipal Revenue Sharing Program. For the first time in seven years, the Governor's Municipal Advisory Council was reinstated. As a result, members of the Maine Municipal Association's Executive Committee met with Gov. Mills in March to discuss issues of municipal importance.

Members of the Legislature were also responsive to municipal concerns. Throughout the session, legislators, participating as committees, caucuses and individuals, took into consideration the impact that proposed policy changes would have on municipalities and property taxpayers. Although some initiatives were enacted over the objections of local government leaders, in many instances amendments to the printed bills were adopted to blunt or circumvent shifting additional burdens onto municipalities, counties and schools.

But most importantly, local level advocacy efforts, which were undertaken "back at home" and in the halls of the State House, were at the core of the association's successes. It was clear that several legislators had been prepped by their local officials and as a result were well-versed in issues of municipal importance. Municipal officials traveled from near and far to participate in public hearings on a variety of different issues. MMA benefited from the advocacy efforts of its affiliate groups (e.g., clerks, tax collectors, assessors,



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public safety officials, etc.), as well as from colleagues representing mayors, service center communities, counties, public schools, universities and community colleges.

The members of the association's Legislative Policy Committee (LPC) also deserve tremendous credit for developing a 2019-2020 legislative platform that

was well received. Of the 10 issues on the Policy Committee's agenda, five were enacted this year, three were carried over for further consideration during the 2020 session, and only two initiatives failed passage.

Areas of success

LPC proposals to increase access to inmate health care, expand access to broadband infrastructure and address utility poles located in the right of way were enacted.

LD 761, *An Act To Ensure Incarcerated Individuals Are Eligible for Medicaid during Incarceration and Receive Food Supplement Program Benefits upon Release*, sponsored by Rep. Rachel Talbot Ross of Portland, requires the Department of Health and Human Services to establish procedures to ensure that incarcerated individuals who qualify for federally approved Medicaid services are enrolled in the program.

LD 1063, *An Act To Support the Role of Municipalities in Expanding Broadband Infrastructure*, sponsored by Rep. Jay McCreight of Harpswell, adds "community broadband systems" to a list of essential facilities that the state, by statute, encourages municipalities to create or operate for reasons of public necessity.

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, exempts municipalities from utilities' fees assessed for "make-ready" work to accommodate attaching municipal facilities to a shared-use pole for a governmental purpose consistent with the police power of the municipality or for the purpose of providing broadband service to an unserved or underserved area.

In addition, LD 1206, *An Act Regarding Utility Poles in Public Rights-of-way*, sponsored by Rep. Pinny Beebe-Center of Rockland, was also enacted. In part, this Act relieves municipal officials from liability for utility poles and facilities in the public way by adding language to the existing law specifying that utility poles and facilities are not defects in the public way.

Although LD 1234, *An Act to Expand the Value of the Homestead Exemption to \$25,000 and State Reimbursement to 100 Percent of Lost Property Tax Revenue*, sponsored by Rep. Betty Austin of Skowhegan, was carried over on the Special Appropriations Table, a modified version of the proposal was enacted. Part H of the FY 2020 – FY 2021 biennial General Fund budget increases the value of the homestead exemption to \$25,000 and state reimbursement for the lost property tax revenue to 70% as of April 1, 2020.

Second chance bills

Municipal efforts to direct a portion of the adult use marijuana excise and sales tax revenue back to the communities where the revenue is generated, to reinstate the state's property-tax deferral program, and to authorize municipalities to adopt a local option sales tax were carried over into the 2020 session for more deliberation.

LD 335, *An Act To Require the State To Distribute 12 Percent of Adult Use Marijuana Retail Sales and Excise Tax Revenue to Generating Municipalities*, sponsored by Rep. Charlotte Warren of Hallowell and amended by a majority of the Taxation Committee would require 12% (less state administrative costs and fund deductions) of adult use marijuana related sales and excise tax revenue to be shared with the municipalities where the revenue was generated.

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. Donna

Bailey of Saco, reinstates a state program allowing qualifying homeowners to defer property tax payments. Under the terms of the bill, which mirrors legislation the sponsor submitted last year, the state pays the municipalities for the property taxes owed by a program participant and in exchange retains a non-foreclosing lien on the property, enabling the state to sell the home and recoup its costs once a participant is no longer eligible for the deferral. Although LD 682 is not technically a Policy Committee bill, Rep. Tom Skolfield of Weld did submit similar legislation on behalf of MMA. The Taxation Committee chose to advance LD 682 for consideration by the entire Legislature.

In the same vein, MMA also advanced a version of a local option sales tax bill, the concept of which was ultimately rolled into 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. As amended by a majority of the Taxation Committee, the bill authorizes a municipality, by vote of the local legislative body, to assess a 1% tax on meals and lodging sales. The revenue is remitted to the state and, after accounting for state administrative costs, the state is required to share 75% of the revenue with the generating municipality and transfer the remaining 25% to the Maine Rural Development Authority.

Dead files

Despite the bill sponsors' valiant efforts, the Association's legislative agenda suffered two losses. LD 236, sponsored by Rep. Paul Stearns of Guilford, would have required school administrative units to include on the school budget warrant an article describing how unanticipated school aid would be used. And, LD 1278, sponsored by Sen. Marianne Moore of Washington County, sought to constitutionally protect funding for the State/Municipal Revenue Sharing Program.

Close calls

Somewhat counterintuitively, successes can also come in the form of initiatives that failed to pass. This year, by the actions of the governor or the Legislature, three bills with considerable potential to negatively affect property taxpayers were defeated.

LD 1177, *An Act to Improve Public*

Sector Labor Relations, would have made public sector employer/employee negotiations over salaries, retirement and insurance benefits binding in the process of arbitration. Currently, the final decision on these fiduciary responsibilities rests with duly appointed and elected representatives of Maine's university and community college systems, municipalities, counties and schools. Although the bill was supported in both the House and the Senate, LD 1177 was successfully vetoed by Gov. Mills. Municipal officials from across the state, as well as the association, greatly appreciate the governor's willingness to entrust public employer partners with the authority necessary to continue to make decisions that are in the best interest of the state's taxpayers.

LD 261, *An Act To Restrict the Authority for Posting Roads*, would have prevented the imposition of weight-related restrictions over publicly maintained roads that: (1) impact commercial entities either headquartered or conducting business activities in the state; (2) apply during any time the air temperature falls below 31 degrees Fahrenheit; or (3) are longer than a six week period, unless written notice and justification is provided. In a nutshell, LD 261 would have severely restricted the ability of the state, municipalities and counties to protect the tax funded public infrastructure network essential to Maine's economic vitality.

Currently, the Maine Tort Claims Act 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. LD 1091, *An Act Regarding the Personal Liability of Government Employees*, would have provided an exception to this limit for an employee who has liability insurance covering negligent acts or omissions, in which case the maximum payout would have been equal to the limits of the policy. Municipal officials believe this change in statute could have increased property taxpayer exposure to claims and certainly would have inhibited crucial local level workforce recruitment efforts.

In limbo

One of the more time sensitive issues the Legislature was unable to resolve prior to adjournment was an

agreement on a bond package. While members on both sides of the political aisle supported passage of a traditional transportation bond, some members of the Legislature were more vocal about their opposition to packaging four separate bond proposals into the one bill that was before the House and Senate for consideration.

LD 1836, *An Act To Authorize a General Fund Bond Issue for Infrastructure, Economic Development, Workforce Development and Energy and Environment Investment*, is made up of four separate bond proposals totaling \$239 million in borrowing of which: \$105 million is for transportation related projects; \$50 million for economic development, including \$30 million for expanding access to broadband internet service; \$19 million for workforce development; and \$65 million for energy and environment related programs and projects, including \$30 million to fund the Land for Maine's Future program.

As a result of the impasse, it is possible that the Legislature will reconvene before the 2020 session to vote on a bond package. In order for the Secretary of State's Office to draft, proof and print the ballots in time for the Nov. 5,

2019 referendum election, the bond bill or bills must be enacted by the Legislature and signed by the governor by the end of August.

New laws & other updates

In-depth descriptions of the newly enacted laws of municipal relevance, bills carried over into the 2020 session for more deliberation, and studies that will take place between sessions are also published in this edition of the magazine. If you have questions about the information presented in these articles or about the legislative process, please do not hesitate to contact Kate Dufour at kdufour@memun.org or

1-800-452-8786.

Finally, thank you to all who had a hand in the success of this session, including Rep. Thom Harnett of Gardiner and Sen. Marianne Moore of Washington County, who caused the weekly Legislative Bulletin to be distributed in the House and Senate. Also, thank you to municipal officials from across the state, members of MMA's Legislative Policy Committee, Garrett Corbin, Rebecca Graham and Laura Ellis who round out the Association's advocacy team, as well as all other MMA employees who supported our efforts. All of your contributions are greatly appreciated. ■

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