

2019 Legislative studies: Topics range from jail funds to climate

By Rebecca Graham, Legislative Advocate, MMA

As the leaves begin to change color, the role of legislators often shifts to examining complicated policies in greater detail. Legislative studies are generally established to give more time and thoughtfulness on how to approach complex problems that might extend beyond one section of law, one revenue source, or yield broad impacts on a number of stakeholders. While these studies often languish on shelves gathering dust with subsequent legislatures failing to act on the recommendations offered, this year's working groups will examine issues that nonetheless deserve thorough review.

Over the next several months MMA staff will monitor the following studies:

County jail funding. County jails have long suffered from politically charged, revolving blame approaches to funding and justice policy. Currently, the estimated \$90 million required to maintain the level of correctional services provided by the counties is funded almost exclusively through property tax assessments. While the state has increased its portion of county jail expenditures to \$18.4 million annually, property taxpayers are still carrying a majority of the expenses – roughly \$65 million annually – leaving county officials scrambling to patch together the remaining funds through their limited revenue generating capacity.

Unfortunately, the response to this perpetual problem has been to shift additional burdens onto property taxpayers. This past legislative session alone, the Criminal Justice and Public Safety Committee held public hearings on five bills, three of which proposed stabilize county jail funding by removing the only protection for the taxpayer — the municipal property tax cap — which restricts the increase of municipal funding for county jails to no more than 4% annually. That being said, this year several other cost-saving initiatives were submitted to the Legislature for



The State House grounds, in summer. (Photo by Ben Thomas)

its consideration, including measures to increase the state's contribution to jail operating costs, reduce sentencing burdens, promote bail reform and relieve inmate health care burdens on counties.

In response to the need to stabilize jail funding and improve cost savings, the Criminal Justice and Public Safety Committee has been authorized to meet between legislative sessions to explore the factors driving the cost of county jails, identify solutions, and draft legislation for consideration by the entire Legislature in 2020. Stakeholders invited to participate in the process include: the Maine County Commissioners' Association, Maine Chiefs' of Police Association, Maine Sheriffs' Association, Maine Municipal Association, NAMI Maine, the Department of Corrections and representatives from the judicial branch.

Transportation funding. The state's highway and bridge network funding shortfall is estimated at \$160 million per year. The reasons for the gap between infrastructure improvement needs and available resources are varied. Construc-

tion costs have doubled, prompting the Department of Transportation to cancel many vital projects. Vehicles have become far more energy efficient, thereby reducing the fuel tax revenues collected. Additionally, to date there have been no proposals to effectively or fairly shift increasing road and bridge maintenance and improvement costs to the 37 million visitors who travel to Maine each year to enjoy the state's natural resources.

LD 945, *An Act to Establish a Blue Ribbon Commission To Study and Recommend Funding Solutions for the State's Transportation Systems*, sponsored by Rep. Tom Martin of Greene, will explore those issues through the creation of a 15 member commission, which includes a municipal official "representing an organization of municipal or public works officials." The commission is tasked with: (1) reviewing the level of funding necessary to achieve the state's capital improvement goals; (2) seeking ways to achieve consistent, predictable, and sustainable funding solutions for transportation-related projects as well as multimodal transportation infrastruc-

ture; (3) increasing the predictability of bonding; (4) responding to the inequities between road users caused by vehicles' varying fuel efficiencies; and (5) considering new funding options to support achieving all current and future needs including exploring ways to share the costs between residents and nonresidents using the road system. The commission will meet six times over the course of 2019, hold public meetings in at least three different areas of the state, and submit its findings and recommendations to the Transportation Committee, which is authorized to submit legislation to the Second Regular Session of the 129th Legislature.

Climate. LD 1679, *An Act To Promote Clean Energy Jobs and To Establish the Maine Climate Council*, sponsored by Sen. David Woodsome of York County on behalf of Gov. Mills, establishes the Maine Climate Council, which is directed to: (1) identify climate change mitigation, adaptation and resiliency strategies that ensure equity for all sectors of the state and residents; (2) pursue technological and cost-effective responses to these statewide hazards; (3) reduce greenhouse gas emissions; and (4) transition Maine's economy to a clean energy plan. The proposed membership of the climate council consists of two legislators from each chamber, members from each state department, the Governor's Office of Policy and Management, Maine State Housing Authority, Governor's Energy Office, Efficiency Maine Trust and members representing the state's tribal governments, municipal government, organized labor, building and construction trades, energy sector, forestry, agriculture, marine fisheries, environmental non-profits, small businesses, climate change experts, University of Maine system, Maine youth, and members of the public. The law sets out the structure of the study, including the establishment of subject area subcommittees, compensation terms, and objectives and requires the council to report to the Environment and Natural Resources Committee on its progress on Jan. 15, 2021 and every year thereafter.

Recycling Reform. LD 1431, *Resolve To Support Maine Recycling Programs*, sponsored by Rep. Mick Devin of Newcastle, seeks to create a system of extended producer responsibility over the disposal or reuse of their

packaging by directing the Department of Environmental Protection to make recommendations for a producer supported program, through use of a third party entity, that addresses four key outcomes: (1) covers at least 80% of the cost associated with recycling readily recyclable materials; (2) reimburses municipalities for the cost of managing non-recyclable packaging; (3) invests in waste reduction, recycling education and infrastructure; and (4) pays higher fees for packaging materials that are not readily recyclable, are made of multiple materials, or are toxic, while assessing lower fees for packaging materials with higher recycling values and recycled content.

As municipalities are mandated to manage waste they do not generate, and have little power to reduce a producer source bill may provide a far better outcome than the one size fits all solutions historically introduced. Either way, municipal input is necessary.

To that end, MMA staff will hold a meeting with the Department of Environmental Protection and interested municipal officials at MMA at a yet to be determined date in September. If you are interested in participating in this discussion, please email Rebecca Graham at rgraham@memun.org. It is clear that Maine's recycling opportunities and challenges are as diverse as its extensive geography, and therefore it is important that as many voices as possible are at the table.

Improving incarceration. LD 829, *Resolve to Reestablish the Commission to Improve Sentencing Supervision, Management and Incarceration of Prisoners*, sponsored by Rep. Rachel Talbot Ross of Portland, creates a commission tasked with conducting research and preparing recommendations that: (1) reduce overall prison and jail populations; (2) reduce overall costs; (3) accomplish policy improvements to transition prisoners back into the community; (4) preserve community safety; (5) respect the needs of victims and hold prisoners accountable for their actions; and (6) address factors leading to increasing prison populations, the impact of current sentencing laws, the uses of alternate sentences, and the means of reducing recidivism. Among several others, members of the commission include nine members appointed by Governor Mills representing prosecutors, county commissioners, county sheriffs, criminal defense

lawyers, people with mental illness, organizations working to end domestic violence, as well as sexual assault, a member of a federally recognized tribe in the state, and the public. No later than Dec. 4, 2019 the commission must submit its report to the Criminal Justice and Public Safety Committee, which is authorized to report out legislation to the Second Regular Session of the 129th Legislature.

MMA has offered to hold a stakeholder group in conjunction with the Justice Reinvestment Policy Center under the Council of State Governments Justice Center who may be part of this effort moving forward. Municipal leaders with police departments, or those struggling with challenges associated with substance use disorder in their communities and who are interested in participating in future information gathering sessions, are urged to contact Rebecca Graham at rgraham@memun.org.

Old roads and cemeteries. Another year meant another attempt to further amend discontinued and abandoned road law in Maine. While the ink was still drying on last year's significant revisions to statute, a new submission, LD 1415, *An Act To Improve the Laws Regarding Discontinued Roads*, sponsored by Rep. Catherine Nadeau of Winslow, attempted again to remove the option municipalities have to abandon roads not maintained for more than 30 years. Another bill, LD 1536, *An Act to Require Municipalities to Maintain Access on Public Rights-of-way*, sponsored by Rep. Denny Keschl of Belgrade, if passed, would have upended carefully crafted laws governing town ways and replaced them with provisions that add extra municipal costs.

The State and Local Government Committee will use LD 1415 as a vehicle to study the same underlying issue whose drum has been beat by the same few stakeholders every year, with an eye on property rights, taxpayer rights, and public access. At this juncture, the association has little insight as to what direction this study will head in terms of recommendations.

Also on the study plate for the committee is the review of issues related to ancient and family burial grounds and development of legislation for consideration in the Second Regular Session of the 129th Legislature. During the 2019 session, three bills were presented to

the Legislature attempting to clarify responsibility for maintaining, documenting, and providing access to ancient and family burial grounds when the property is conveyed to new ownership.

Dispatch center call quality funding & protocols. As with roads, the task for this study will entail balancing public access with private property rights. LD 674, *Resolve Regarding Implementation and Funding of E-911 Dispatch Protocols*, sponsored by Rep. Tina Riley of Jay, will convene a group of stakeholders directed to explore the use of a surplus of state funds available to cover the costs and implementation of standardized dispatch call quality protocols with efficient and effective use of the funds to provide relief to local taxpayers. Members invited to the study group include: the Department of Public Safety, Public Safety Answering Points (PSAPS); dispatch centers that are not PSAPS; police chiefs; county sheriffs; fire chiefs; county commissioners; emergency medical service providers; dispatchers; the Maine Emergency County Communications Association; the Maine Chapter of the National Emergency Number Association; and, MMA.

Haz-Mat team support. LD 1038, *Resolve, To Convene a Stakeholder Group on Funding Training for the State's Hazardous Materials Emergency Response Teams and the Acquisitions of Equipment*, sponsored by Rep. Colleen Madigan of Waterville, directs the director of the Maine Emergency Management Agency to convene a stakeholder group to review and make recommendations regarding the funding currently provided to the state's hazardous materials emergency response teams, including the eight regional response teams and the seven decontamination strike teams, funding options, the training of the teams and equipment acquisition. The director is required to invite to the stakeholder group representatives from the Maine Fire Chiefs' Association, fire chiefs from municipalities with regional response teams or decontamination strike teams, and other persons who express interest in the work of the stakeholder group. No later than Nov. 6, 2019, the director must present the findings and recommendations of the stakeholder group to the Criminal Justice and Public Safety Committee, which is authorized to report out legislation to the Second Regular Session of the 129th Legislature.

Elections. LD 1026, *Resolve, Direct-*

ing the Secretary of State to Examine Best Practices in Elections, sponsored by Rep. Brian Hubbell of Bar Harbor, directs the Secretary of State to conduct a study of the best practices in post-election ballot audits and recounts. In conducting the study, the secretary may consult with state and municipal election officials, election security advocates, and other experts in the field of election audits and recounts. By Dec. 6, 2023, the secretary is directed to submit a report based on the study to the Veterans and Legal Affairs Committee, which is authorized to submit legislation in the Second Regular Session of the 131st Legislature.

Abandoned poles. LD 1206, *An Act Regarding Utility Poles in Public Rights-of-way*, sponsored by Rep. Pinny Beebe-Center of Rockland, submitted on behalf of MMA's Policy Committee, directs the Public Utilities Commission (PUC) to study issues related to abandoned utility poles and associated facilities left in the public way. MMA staff will directly update municipal officials and other stakeholders on the PUC formal inquiry and how it proposes to improve the rules regarding pole removal, relocation of facilities and restoration of the pole site to a safe condition in a timely manner. The report may include findings and recommendations as well as suggested legislation for consideration in the 2020 session. Municipal officials interested in this study are welcome to contact Garrett Corbin at gcorbin@memun.org.

Presumptive eligibility and homelessness. LD 459, *An Act Regarding Presumptive Eligibility and Homelessness under the General Assistance Laws* sponsored by Sen. Benjamin Chipman of Cumberland County, defines "homelessness" under the General Assistance (GA) laws while it also directs the Department of Health and Human Services to convene a working group to study the municipal GA program with the goals of establishing more efficient methods of distributing benefits to individuals, reviewing

the difference in effects on service center communities and other communities, and devising an equitable method of establishing municipal responsibility and services to reduce homelessness and reliance on homeless shelters.

Mattresses. LD 710 *Resolve, To Require the Department of Environmental Protection To Study the Establishment of a Product Stewardship Program for Mattresses*, sponsored by Rep. Seth Berry of Bowdoinham, directs the Department of Environmental Protection to study the establishment of a new stewardship program in the state for mattresses, which are a problematic bulky waste material with no easy solution for storage or disposal.

School Transportation. LD 1641, *An Act To Strengthen the School Transportation Workforce*, sponsored by Sen. Erin Herbig of Waldo County, directs the Department of Education, in collaboration with the Department of Labor, to comprehensively examine issues associated with the school transportation workforce, including, but not limited to, determining the best strategies for hiring, training and retaining school transportation personnel. The Department of Education is directed to consider ways to conduct training at no cost to school transportation personnel and by Jan. 1, 2020, submit a report with findings and recommendations to the Education and Cultural Affairs and the Labor and Housing Committees, which are both authorized to report out legislation on the subject of the report to the Second Regular Session of the 129th Legislature.

While many of these studies will have regional public hearings, all work group and study sessions are open to the public. Municipal officials interested in contributing to or monitoring the progress of one or more of the study efforts described above are encouraged to contact Laura Ellis at lellis@memun.org or 1-800-452-8786 for inclusion on an interested parties list. ■

1-800-532-6654
tdbank.com



America's Most Convenient Bank®

Member FDIC TD Bank, N.A. | Equal Housing Lender