

LEGISLATIVE BULLETIN



Vol. XLIII No. 16 April 30, 2021

Monday Morning Quarterbacking on Cops Defining Qualified Immunity

We all love to critique our team's performance following a game from the comfort of our couch, resolute in our view of how athletes who train all year should have responded on the field from our cushioned view on the sidelines. Our vantage point offers us a broadened view thanks to cameras, replays and the benefit of ongoing commentary. While we see an opening on the field of play, the players see the six-foot obstruction between them and the end goal. All week those same athletes train to keep in peak condition for a single test of heightened, often chaotic, but short-lived intensity while we eat nachos and shout instructions confidently.

On Thursday, members of the Judiciary Committee listened to at least 40 individuals testify on LD 214, *An Act To Eliminate Qualified Immunity for Police Officers*, sponsored by Rep. Jeffrey Evangelos of Friendship, and LD 1416, *An Act To Limit Qualified Immunity of Law Enforcement Officers in Maine Civil Rights Act Claims*, sponsored by Sen. Anne Carney of Cumberland County.

LD 214 as drafted proposes to remove qualified immunity for violations of Maine's Civil Rights Act, enjoyed by all public officials unless they are law enforcement officers. This would subject individual officers to lawsuits without limits for remedy and ensure perpetual litigation tying up an individual's ability to obtain a home loan or freeze assets, simply because someone alleged a violation, until it was adjudicated.

LD 1416 would cap the available remedy that could be expected from an individual to \$10,000 and only for egregious violations where the threat of force was used in the denial of the right guaranteed under Maine's Civil Rights Act.

Most public officials often carry roles

which inevitably intersect or directly conflict with constitutional rights by their very nature. Some, like legislators, have absolute immunity. They cannot have civil cases filed against them for the harm incurred by their legislative efforts nor for slanderous or insulting comments made during the course of a public hearing. Others, like sheriffs, cannot even be removed from office except by actions of the Governor.

Monday morning quarterbacking on the actions of police in intense and rapidly evolving dangerous situations has been recognized by the court as a luxury in a calm environment that also comes at high public

cost. In Maine, when there are questions as to whether a reasonable officer would have provided a better warning, or there is a dispute of facts between the parties involved, a summary judgement of qualified immunity is never offered and the case goes to a jury trial to be decided.

Law enforcement is one of those government agency roles that by its very description is imbued with the authority to violate constitutional rights as agents of the state to enforce laws.

Daily, police must place limits on movement, restrict liberty, speech, actions, access to weapons, remove and physically harm

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Are Remote Meetings Here To Stay?

If Sen. Trey Stewart of Aroostook County has his way, local governments will be permanently entrusted with the authority to conduct remote public proceedings. Under current law, remote meetings authority will expire 30 days after the termination of the current state of emergency. Unless extended, the state of emergency will expire on May 13.

LD 32, *An Act Regarding Remote Participation in Public Proceedings*, was sponsored at the request of municipal, county and school leaders across the state. As amended by the sponsor and in collaboration with MMA, Maine Education Association and Disability Rights Maine, the bill allows, but does not mandate, local governments to conduct remote proceedings provided that certain conditions are met.

Under the terms of the amended the bill: (1) The governing body, after provid-

ing public notice and conducting a hearing, must adopt a written policy that describes which members of the body are authorized to participate in remote meetings, allows both members of the body and the public to attend the meeting via remote methods and makes reasonable modifications to accommodate access by individuals with disabilities, in accordance with the Americans with Disabilities Act, Maine Human Rights Act and Section 504 of the Rehabilitation Act. (2) The remote method used must allow each member of the body to be seen and heard by members of the body, as well as by members of the public. When appropriate, accommodations must be made to allow members of the public to communicate with the members of the body. (3) The required notice of the proceeding must also include the means by which members of the public

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HEARING SCHEDULE

For the week of May 3, 2021

MONDAY, MAY 3

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

LD 1052 – An Act To Protect the Firearm Use and Possession Rights of Maine Citizens during an Emergency.

LD 1315 – An Act To Protect Firearm Use and Possession Rights during a State of Emergency and Require a Two-thirds Vote by the Legislative Council To Declare or Extend a State of Emergency.

LD 1454 – An Act To Prohibit Untraceable and Undetectable Firearms.

Environment & Natural Resources **Room 216, Cross Building, 9:00 a.m.** **Tel: 287-4149**

LD 676 – An Act To Reclassify Part of the Androscoggin River to Class B.

LD 1488 – Resolve, To Study and Recommend Improvements to Maine's Dam Safety.

LD 1503 – An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution.

LD 1505 – An Act To Restrict the Use of Perfluoroalkyl and Polyfluoroalkyl Substances in Firefighting Foam.

LD 1532 – An Act To Protect Maine's Air Quality by Strengthening Requirements for Air Emissions Licensing.

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

LD 1586 – An Act To Strengthen Statewide Mental Health Peer Support, Crisis Intervention Mobile Response and Crisis Stabilization Unit Services and To Allow E-9-1-1 To Dispatch Using the Crisis System.

1:00 p.m.

LD 1570 – An Act To Protect Drinking Water for Maine Residents.

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

LD 1032 – An Act To Promote the Sustainability of the State's Unemployment Insurance System by Linking the Duration of Benefits to the State's Average Unemployment Rate.

LD 1509 – An Act to Provide That Maine's School Bus Drivers Are Eligible for Unemployment Insurance in Certain Circumstances.

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

LD 1340 – An Act To Ensure Municipal Compliance with Federal Immigration Laws.

TUESDAY, MAY 4

Education & Cultural Affairs **Room 208, Cross Building, 10:00 a.m.** **Tel: 287-3125**

LD 1502 – An Act To Clarify Safety Issues in Schools with Respect to Health-related States of Emergency.

Energy, Utilities & Technology **Room 211, Cross Building, 9:00 a.m.** **Tel: 287-4143**

LD 1579 – An Act To Transition State and Local Motor Vehicle Fleets to 100 Percent Zero-emission Vehicles.

LD 1587 – An Act To Remove the Municipal Ordinance Exemption for the Development of Nonessential Transmission Lines.

LD 1625 – An Act To Increase the Number of Lincolnville Sewer District Trustees from 3 to 5.

12:30 p.m.

LD 101 – An Act To Prohibit Offshore Wind Energy Development.

LD 1619 – An Act To Establish a Moratorium on Offshore Wind Power Projects in Maine's Territorial Waters.

Judiciary **Room 438, State House, 9:00 a.m.** **Tel: 287-1327**

LD 906 – An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water.

LD 1568 – An Act To Implement the Recommendations of the task Force on Changes to the Maine Indian Claims Settlement Act.

LD 1626 – An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act.

Marine Resources **Room 206, Cross Building, 9:00 a.m.** **Tel: 287-1337**

LD 1211 – Resolve, To Create the Study Group To Research Balancing Development and Conservation in Maine's Coastal Waters and Submerged Lands.

Taxation **Room 127, State House, 11:00** **Tel: 287-1552**

LD 708 – An Act To Increase the Homestead Exemption to \$50,000.

LD 1071 – An Act To Reduce Property Taxes for Maine Residents.

LD 1355 – An Act to Amend the Motor Vehicle Excise Tax Exemption for Veterans Who Are Disabled.

LD 1448 – An Act To Increase State Reimbursement to Municipalities for Revenue Lost Due to the Homestead Property Tax Exemption.

LD 1482 – An Act To Improve Access to Property Tax Exemptions for New Homeowners.

LD 1516 – An Act To Amend the Property Tax Exemption for Persons Who Are Legally Blind.

LD 1525 – An Act To Exempt from Sales Tax Plastic Bags Required by a Municipal Solid Waste Management Program.

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

LD 130 – An Act to Create Appropriate Standards for the Secretary of State To Follow When Approving the Assignments of Vanity Registration Plates.

LD 289 – An Act To Authorize the Secretary of State To Reject Certain Vanity License Plate Requests.

LD 1124 – An Act To Change the Threshold for Creating a Specialty License Plate from 2,000 Prepaid Orders to 1,000 Prepaid Orders and To Extend by One Year the Time Allowed for Gathering Signatures.

LD 1183 – An act To Establish a License Plate in Support of Multiple Sclerosis Programs.

Hearing Schedule (cont'd)

LD 1567 – An act To Equitably Fund Maine's Climate Change Mitigation Efforts.

LD 1572 – Resolve, To Analyze the Impact of Sea Level Rise.

LD 1595 – An Act To Address Waste Associated with Solar Energy Equipment.

LD 1600 – An Act To Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater.

Judiciary

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

Tel: 287-1327

LD 1438 – Resolution, Proposing an Amendment to the Constitution of Maine To Declare the Natural, Inherent and Unalienable Right of Enjoying Personal Privacy.

LD 1480 – An act Regarding the Review of Law Enforcement Use of Deadly Force.

LD 1529 – Resolution, Proposing an Amendment to the Constitution of Maine To Create a Right to Privacy.

LD 1521 – An Act To Strengthen Protections against Civil Asset Forfeiture.

Labor & Housing

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

Tel: 287-1331

LD 1559 – Resolve, To Create the Commission To Develop a Paid Family and Medical Leave Benefits Program.

State & Local Government

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

Tel: 287-1330

LD 1520 – An Act To Terminate the Augusta Downtown Parking District.

LD 1522 – An Act To Update and Eliminate References in Statute to Aldermen, Selectmen and Overseers of the Poor.

LD 1536 – An Act Regarding Municipal Public Hearings on Citizen-initiated Municipal Referenda.

Are Remote Meetings Here To Stay? (cont'd)

may access the proceeding. (4) Finally, all votes must be taken by roll call.

The testimony offered at Friday's hearing before the Judiciary Committee was overwhelmingly in support of LD 32.

Kate Snyder, Mayor of the City of Portland, testified to the fact that not only did the remote meeting authority allow the city to continue to provide vital services throughout the pandemic, the use of technology has resulted in greater levels of public engagement and participation. According to Mayor Snyder, the city has received feedback that remote meetings have made it easier for members of the public to participate in their local government.

Rep. Melanie Sachs of Freeport joined her constituent, Susan Spalding, Bustins Island Village Corporation (BIVC) municipal clerk, in supporting the bill. The authority provided in LD 32 will continue to enable the village's summer residents to participate in public proceedings. According to the BIVC's charter, all property owners are afforded decision making authority and the right to hold office. However, 70% of property owners are seasonal residents, leaving the burden of managing community affairs to the few remaining year round residents. Similar sentiments were conveyed by the Island Institute and community leaders from Isle au Haut and Long Island.

MMA focused its comments on the results of a survey, which was conducted in November 2020 to assess the municipal experience with remote meetings and to gauge member interest in retaining the authority post-pandemic. The results of the survey culminated in the discovery of three core findings.

Increased Public Participation. Echoing the comments made by Mayor Snyder, many municipalities experienced increases in the number of residents tuning in to council, select board, planning board and other committee meetings. The ability to keep an ear on a public proceeding while taking care of children, preparing dinner or avoiding the drive to town hall made it easier for residents to keep updated on governmental activities.

Improved Efficiency and Reduced Cost. Other community leaders found that remote meetings were conducted more effectively

and efficiently, with members of the body focused on the issues on the agenda. In other municipalities, the ability to remotely communicate with attorneys, consultants and other professionals reduced the costs associated with travel and lodging.

Not For All. That said, the value of remote meeting authority is in the eye of the beholder. While some municipal officials don't believe the tool is necessary, others are concerned that the use of remote meetings will quickly evolve into a state mandate that the property taxpayers will have to fund. In addition, many communities still do not have access to reliable broadband services that would help to make remote meetings a reality.

Several other organizations, representing the press, counties, attorneys, utility districts and educational institutions, provided comments in support of the measure. The most surprising (and appreciated) testimony was offered by the Maine Freedom of Information Coalition, also referred to as the "friends of FOIA." In her testimony on LD 32, Judy Meyer noted that the "pandemic forced alternative options and Maine people... found a way to conduct public meetings with transparency and accountability. The unexpected bonus is that participation in meetings has increased without the need for travel."

Municipal officials have long advocated for the use of technology to conduct the public's business. Unfortunately, past attempts to enact authorizing legislation failed over concerns that remote meetings would become common practice and in turn erode the strong-held principle that representatives should be present in order to serve the public.

However, when the pandemic took hold of Maine in March of 2020 and the Legislature temporarily extended remote meeting authority to all local governments, the granting of the authority was perceived by many leaders as a test to whether local government leaders could be trusted to use this tool effectively and fairly.

From all accounts, local government leaders aced the test.

The work session on LD 32 is scheduled for Wednesday, May 5 at 1:00 p.m.

IN THE HOPPER

Criminal Justice & Public Safety

LD 1290 – An Act To Amend the Statement of Purpose of the Maine Emergency Medical Services Act of 1982 To Include Emergency Responses That Do Not Require Transportation. (Sponsored by Sen. Farrin of Somerset Cty.)

This bill amends the statutory purpose of the Maine Emergency Medical Services Act of 1982 to provide that the treatment and non-transport of the sick and injured is a key element of an emergency medical services system.

LD 1447 – An Act To Require Training in Racial Issues, Racial Justice and Social Issues at the Maine Criminal Justice Academy and To Establish Additional Requirements for Law Enforcement Officers and Candidates. (Sponsored by Rep. Gramlich of Old Orchard Beach)

This bill requires basic law enforcement training to include education in racial issues and justice, regarding persons with substance use disorder and regarding social issues and law enforcement responses to challenging social situations. The bill requires in-service training for law enforcement officers to include information on behavioral health, substance use disorder, homelessness, racial issues and racial justice and other social situations that might be presented to a law enforcement officer. Beginning with applications for certification and recertification on Jan. 1, 2022, this bill requires an applicant for certification or recertification as a law enforcement officer to be legally authorized to work in this country, to be at least 21 years of age, to possess a high school diploma or high school equivalency diploma and an associate degree in criminal justice, sociology, psychology, mental health, substance use disorder or implicit bias, to submit to an extensive criminal history record check and to meet the standards for approval established by the Board of Trustees of the Maine Criminal Justice Academy and to have completed at least 60 credit hours of postsecondary education, which may be fulfilled by course work completed in earning an associate degree, in criminal justice or a related field, including but not limited to courses in sociology, psychology, mental health, substance use disorder and implicit bias.

Energy, Utilities & Technology

LD 1579 – An Act To Transition State and Local Motor Vehicle Fleets to 100 Percent Zero-emission Vehicles. (Sponsored by Sen. Vitelli of Sagadahoc Cty.)

This bill establishes goals and timetables for the state, counties and municipalities to reduce greenhouse gas emissions from light-duty motor vehicles, motor vehicles used for utility services, motor vehicles used for public transportation and motor vehicles used for public school transportation by 75% by 2035 and achieve 100% zero-emission fleets by 2040. The bill also directs the Governor's Energy Office to convene an interagency working group to develop a plan to achieve the transition to zero-emission fleets and sets out specific duties for that working group.

LD 1587 – An Act To Remove the Municipal Ordinance Exemption for the Development of Nonessential Transmission Lines. (Sponsored by Rep. Landry of Farmington)

This bill clarifies that the construction of a nonessential transmission line by an investor owned electricity transmission and distribution utility from a generation source located outside of the state is not eligible for a whole or partial exemption from a municipal ordinance.

Environment & Natural Resources

LD 1540 – An Act To Reduce Hunger and Use Food Scraps in Farming and Energy Production. (Sponsored by Rep. Zeigler of Montville)

This bill sets goals for the reduction of the disposal of food scraps and for food rescue, which is collecting edible food that would otherwise become solid waste and distributing the food to a hunger relief organization, food bank or pantry or other recipient to be used for human consumption. The bill sets priorities for the management of food scraps, with reduction at the point of generation being the first priority, then diversion for food consumption by humans, then diversion for agricultural use, including for consumption by animals, then subjecting the food scraps to composting or anaerobic digestion with subsequent soil application and finally subjecting the food scraps to anaerobic digestion not followed by soil application. Requirements are placed on producers of food scraps to separate the food scraps from other solid waste at the point of generation, with

(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.)

these requirements phased in over a five-year period, beginning with the larger producers of food scraps. Commercial entities engaged in the transportation of municipal solid waste are required to collect food scraps from customers except for customers in municipalities with solid waste management ordinances that cover the collection of food scraps and that are consistent with the state's food recovery policy. The bill requires clearly marked food scraps containers to be placed next to any solid waste containers provided in public buildings and on public land.

LD 1567 – An act To Equitably Fund Maine's Climate Change Mitigation Efforts. (Sponsored by Rep. Kessler of South Portland)

This bill establishes the Maine Climate Change Equitable Mitigation Fund, a non-lapsing, revolving fund administered by the Department of Environmental Protection to carry out the purposes of the climate action plan. The fund is capitalized through fees collected on crude oil and certain petroleum products, including home heating oils and gasoline transferred within the state. The use of the money in the fund is subject to various restrictions, and money in the fund may be disbursed only for the cost of fund administration, grants awarded to municipalities or counties for climate change assessments and risk mitigation, loans or grants awarded to community action agencies to supplement existing Efficiency Maine Trust programs for low-income individuals and families and associated administrative expenses, transfers to the Department of Transportation for climate-related programs and projects and transfers to the Efficiency Maine Trust for programs to reduce greenhouse gas emissions.

Judiciary

LD 1626 – An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act. (Sponsored by Rep. Talbot Ross of Portland)

This bill implements the consensus recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act. The purpose of the reconsideration and rewriting of the Maine Implementing Act is to establish that the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians enjoy the rights, privileges, powers, duties and immunities similar to those of other federally recognized Indian tribes within the United States. The full text of the report is available online at <http://legislature.maine.gov/maine-indian-claims-tf>.

Labor & Housing

LD 1269 – An Act To Preserve Fair Housing in Maine. (Sponsored by Rep. Talbot Ross of Portland)

This bill amends the municipal housing authority development laws by requiring the Maine State Housing Authority (MSHA) to ensure that public funds are used to affirmatively further fair housing, which is defined as to engage actively to address barriers to and create opportunities for full and equal access to housing without discrimination on the basis of a protected class, familial status or receipt of public assistance. The bill requires MSHA to develop a plan and report back to the Committee on Labor and Housing by Jan. 15, 2022.

Taxation

LD 1355 – An Act to Amend the Motor Vehicle Excise Tax Exemption for Veterans Who Are Disabled. (Sponsored by Sen. Pouliot of Kennebec Cty.)

This bill provides a motor vehicle excise tax exemption for veterans who are receiving benefits based on 100% permanent service-connected disability.

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Monday Morning Quarterbacking on Cops (cont'd)

individuals in balance with life and property rights of others, as charged by their government employers. Because of this, they are highly trained, scrutinized, subjected to mental and polygraph screenings on hire, and under the intense and consistent observation from their leadership. They must maintain certifications which include everything from operating new technology and understanding the teenage mind to updates on new laws and techniques on crisis intervention.

Additionally, they are expected to perform at all hours, regardless of personal state, with 100% accuracy at all times. As is the case in any job classification, sometimes, they fail. If their actions fall in line with training, department policy and the objective reasonable response of a similarly trained individual, they are shielded from personal liability. When they follow the color of the law and make a mistake, the behavior is covered by the department or governmental entity, but may be subject to civil liability.

Qualified immunity is constructed to “strike a balance between the competing values of vindicating constitutional rights and protecting public officials from meritless suits.” Municipal police find themselves in these situations daily, and because of this, are far more likely to attract such suits. Qualified immunity is provided only when the officer acts in good faith in a lawful manner, including adhering to department policy, and that action is objectively reasonable. The action or response must also violate a clearly established statutory or constitutional right.

For a constitutional right to be clearly established, its contours must be sufficiently clear that a reasonable official would understand the action violates that right. It is often the case that the public widely misunderstands the application of law. In fact, the government is only prohibited from the absolute violation of two fundamental rights: the right not to be enslaved and the right not to be tortured. The government has always

been able to deprive an individual of the right to life in a very narrow set of circumstances. Those circumstances are even broader in a declared conflict to include collateral life.

This does not sit well with anyone, including those who have withstood the test within a conflict zone. However, oversimplifying and dismantling the complex legal doctrine of qualified immunity as a panacea that only targets “bad actors” is equally problematic. Bad actors are simply not protected by the Maine courts regardless of perception, and because of the state’s approach, federal courts often accept the summary judgement jurisprudence regarding federal violations.

Proponents of both measures, including the American Civil Liberties Union of Maine, Ben and Jerry of ice cream fame, the National Police Accountability Project, and the Maine Trial Lawyers Association as well as several private individuals, testified the measures were necessary to stem the violence experienced by people of color at the hands of the police across the nation. Often conflating criminal responsibility with civil remedy, proponents felt police were blocked from accountability because they cannot be sued individually.

However, immunity doctrine in practice is qualified. Any unlawful or unreasonable action is not shielded by the doctrine and multiple opponents, including the Department of Public Safety, Maine Chiefs of Police Association, Maine Sheriffs’ Association,

Maine Troopers’ Association, police officers and their spouses, attempted to explain an extremely complex legal review of situational events, which does not provide protection from criminal liability for any unlawful police action.

In its neither for nor against testimony, MMA staff provided the committee with examples of model policy on use of force police are expected to follow, which factor in the test for qualified immunity protections, expressed concern that police are unable to secure personal liability insurance due to the nature of their jobs which require them to violate rights on a daily basis, and committed to work with stakeholders on a more palatable exploration of the impacts under LD 1416.

LD 214 is simply unworkable from the municipal view. Officials see that in practice in Maine, qualified immunity is not readily available to bad actors, but it does protect our good ones.

While courts may have the benefit of a play by play review of those actions from the bench, municipal officials believe our police deserve the same protections for their families and assets because of their dedication to the undervalued effort of public service enjoyed and qualified for us all.

The members of the Judiciary Committee will have much to discuss when they work these two bills at a work session on a yet to be determined date.

LEGISLATIVE BULLETIN

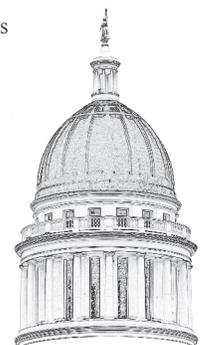
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Ultra-High-Speed-World-Class Internet

For municipal officials, it is hard to imagine living without the internet. However, for too many Mainers it is easy to imagine dealing with slow speeds, dropped connections, or exorbitant internet costs. The need to upgrade broadband infrastructure in Maine is well known. Now, leaders at all levels are making proposals to finally address the state's lagging broadband network and correct the damaging impact that poor broadband service has on economic prosperity and personal well-being.

Governor Janet Mills, before the Energy, Utilities and Technology Committee this week, made the broadest call for better broadband, stating that "High speed internet is as fundamental as electricity, heat, and water. It is the primary way of connecting with other people. It is the modern equivalent of rural electrification in the 1930s and the interstate highway system in the 1950s. The internet is our highway of the future, yet thousands of people and businesses still can't access, or afford, high speed internet in Maine."

The governor was present at the committee's public hearing to support an amendment to LD 1484, *An Act To Enhance the ConnectMaine Authority's Capacity To Provide World-class Internet*, sponsored by Sen. Richard Bennett of Oxford County. The bipartisan legislation creates a new sort of entity, the Maine Connectivity Authority (MCA), with the mission of expanding affordable broadband. Setting MCA apart from the ConnectMaine Authority is a much larger degree of autonomy and the power to own real or personal property, execute contracts with public and private entities, issue revenue bonds, hold securities, collect fees and provide financing.

Proponents of this quasi-governmental agency included the Department of Economic and Community Development, Island Institute, GWI, Maine Broadband Coalition, and the Office of the Public Advocate. Those speaking in support felt the new authority gives Maine more control over broadband development and rate-setting decisions because there will be more opportunities for public ownership. MCA will also take a holistic approach to closing the digital divide in rural communities instead of

further supporting patchwork infrastructure controlled by private companies.

MMA presented neither for nor against testimony for LD 1484 on the basis that municipalities have a diminished voice in the governance of the new authority compared to its previous iteration. Yet the success of MCA will depend on local governments playing a larger role in expanding broadband to their residents. Besides concern that the state is shedding some of its responsibility on the matter of broadband expansion, municipalities have hopes that MCA will even the playing field between local governments and private internet service providers. The legislation expects this will lead to world-class internet.

The Association was joined in neither for nor against testimony by Consolidated Communications, Charter Communications, and Telecommunications Association of Maine. No parties spoke in opposition to the bill during the public hearing.

Following the enticing promise of world-class internet was another bill with an even more tantalizing broadband development.

LD 1432, *An Act To Update the Municipal Gigabit Broadband Network Access Fund*, sponsored by Rep. Seth Berry of Bowdoinham, offers municipal grants to create "magnet communities" that have symmetrical gigabit upload and download speeds. Gigabit speeds are 10 times faster than 100/100 megabits per second. As the bill notes, this is ultra-high-speed internet. According to proponents, these magnet communities would attract businesses and professionals that rely on ultra-speeds that are rare in the nation and practically non-existent in Maine.

MMA supported the bill and during testimony highlighted the proper expansion of grants from communities over 1,200 residents to all communities in Maine and the potential for these grants to tip a broadband project into the realm of possibility for many municipalities. Rep. Vicki Doudera of Camden, Rep. Valli Geiger of Rockland, Midcoast Internet Coalition, Maine Broadband Coalition, and the Island Institute contributed supporting testimony as well.

Industry representatives from Charter Communications, Consolidated Commu-

nications, and Telecommunications Association of Maine opposed the bill on the basis that it diverts scarce resources from unserved areas to areas that already have broadband, leading to costly overdevelopment. Private enterprises are worried funds that currently flow in as revenue will be redirected and used to increase competition from the public sector. The argument that this bill will create overdevelopment only holds weight when talking about communities with gigabit speeds, and to date, those are few and far between.

A third bill before the committee this week, LD 848, *An Act To Increase High-speed Internet in Rural Maine*, sponsored by Rep. Amanda Collamore of Pittsfield, takes a traditional incentive-based approach to broadband expansion by offering tiered tax breaks to companies that connect at least 90% of citizens in a rural community to high-speed internet.

The concept draft pushed MMA to offer neither for nor against testimony until details defining what speeds represent "high-speed" and which residents or properties constitute the 90% threshold are revealed. Also taking the middle road were the Island Institute, ConnectMaine Authority, and Office of the Public Advocate. Charter Communications and Telecommunications Association of Maine supported the bill's proposed tax breaks to for-profit enterprises.

All of these bills propose solutions, big and small, to advance connectivity across the state and improve Maine's reputation for poor internet service, but not all of them are likely to receive necessary funding. As with many others, the bill sponsors are eyeing funding from the American Rescue Plan Act. Should the committee see value in these pieces of legislation, the state will be on its way to some combination of ultra-high-speed-world-class internet. The conversation will continue during work sessions that have yet to be scheduled.



Maine Municipal Association

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IN THE HOPPER *cont'd*

LD 1418 – An Act To Allow a Local Option Sales Tax on Meals and Lodging. (Sponsored by Sen. Luchini of Hancock Cty.)

This bill allows a municipality to impose a local option sales tax of no more than 1%, which may be seasonal, on prepared food, not including marijuana or marijuana products, and short-term lodging if approved by referendum of the voters in that municipality. Revenue from the local option sales tax is distributed at the rate of 85% to the municipality and 15% to all other municipalities. Revenue received by a municipality may not be used to reduce or eliminate funding otherwise due the municipality under other provisions of law, such as revenue sharing.

LD 1448 – An Act To Increase State Reimbursement to Municipalities for Revenue Lost Due to the Homestead Property Tax Exemption. (Sponsored by Rep. Talbot Ross of Portland)

Beginning with property tax years beginning on or after April 1, 2022, this bill increases the state reimbursement for the property tax revenue lost by a municipality due to the Maine resident homestead property tax exemption to 100%. This bill also specifies that the property tax assessed on a homestead eligible for the homestead exemption may not be less than \$100.

LD 1482 – An Act To Improve Access to Property Tax Exemptions for New Homeowners. (Sponsored by Rep. Grohoski of Ellsworth)

This bill removes the requirement that a person own a homestead in this state for 12 months before being eligible for the homestead property tax exemption. This bill also requires the state to provide reimbursement of 100% of the revenue lost by a municipality due to removing that 12-month requirement, but only for the first year of eligibility. If a resident is eligible for the homestead exemption but does not take it until after the first year of eligibility, that exemption is eligible only for 70% reimbursement by the state. After the first year of eligibility, the state reimbursement rate drops to the current rate of 70%.

LD 1516 – An Act To Amend the Property Tax Exemption for Persons Who Are Legally Blind. (Sponsored by Sen. Pouliot of Kennebec Cty.)

This bill amends the property tax exemption available to a resident of the state who is legally blind to exempt 10% of the just value of residential real estate owned by the resident from the property tax.

Veterans & Legal Affairs

LD 1575 – An Act To Improve Maine’s Election Laws. (Sponsored by Rep. McCreight of Harpswell)

This bill makes several changes to the laws governing elections by: (1) adding to the list of acceptable documentation for proving eligibility to vote a photographic identification issued by a public or private Maine college or university; (2) adding to the notice of an election the location of ballot drop boxes and at the clerk’s discretion the times for in-person absentee voting; (3) amending the statute regulating the size of the polling place to require the place to be large enough to allow public observation and in addition to one watcher from each political party, one nonpartisan observer to remain outside the guardrail as a poll watcher, as well as to provide reasonable access to the media; (4) reducing from 60 to 14 days prior to the election the timing for filing a complaint with the Secretary of State regarding the size of the polling place; (5) requiring clerks to issue absentee ballots on the Monday before the election; (6) directing the Secretary of State to develop a poster describing the reasons a voter can request an after the deadline absentee ballot and requiring clerks to post the signs at the municipal office, website, social media page or other media outlet communities use to inform the public about the election; (7) requiring municipalities with more than 500 registered voters to be open for at least four hours on the Friday prior to the election to allow for voting in the presence of the clerk; (8) requiring the clerk to immediately notify an absentee voter of a discrepancy with a received ballot and allowing the voter to cure the ballot under procedures developed by the secretary; and (9) requiring the clerk to post notice that absentee ballots will not be processed prior to the day of the election.