

Getting down to brass tacks: A review of 2021 legislative studies

By Neal Goldberg, Legislative Analyst, State & Federal Relations, MMA

Good legislation does not just appear. The process from idea to signed law is difficult and deliberate. As such, studies are conducted and working groups are formed to examine specific issues in depth prior to drafting or enacting legislation.

In the legislative context, “study” refers to the interim work undertaken to offer a more complete understanding of a subject than is typically achievable during legislative sessions. Studies are meant to inform legislators on complicated and evolving subjects or controversial problems, and to seek reasoned solutions.

The Legislature was presented with numerous complex issues that warranted further investigation. Of municipal relevance, there are eight legislative studies and working groups to keep an eye on.

Housing: Of all the studies passed by the 130th Legislature, LD 609, *Resolve, To Establish a Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions*, sponsored by Speaker Ryan Fecteau of Biddeford, is the most timely and carries potential statewide benefit. The availability of affordable, workforce and senior housing is a longstanding problem across Maine that needs a solution before even more residents are priced out of their chosen communities.

There is a belief that the root cause of Maine’s housing crisis stems from zoning and land use restrictions. Thus LD 609 establishes a commission for three purposes: (1) to review data on housing shortages and state laws that affect the local regulation of housing; (2) to consider measures that would encourage increased housing options in the state; and (3) to determine the historical role of race and racism in zoning policies and ensure state and municipal zoning laws do not create barriers to racial equality.

At least one municipal perspective will be represented on the 15-person commission which will report out its recommendations to the Committee on Labor and Housing no later than Nov. 3, 2021. MMA supports this approach on the basis that it seeks to address zoning-related housing impacts through discussion and collaboration, as opposed to mandate as the default solution.

License Plates: The proliferation of specialty license plates available to Maine motor vehicle owners benefits a few select causes, but also creates logistical complications in the manufacture, storage and administration of registration plates. More plainly, they create a considerable administrative burden on municipalities and promote competing interests between causes. Since the current process is complicated and burdensome to municipal officials, MMA supports any effort to create a statewide strategic plan to simplify and streamline the registration of specialty plates.



Source: Bangor Daily News

LD 1618, *Resolve, To Place a Temporary Moratorium on the Approval of Any New Motor Vehicle Registration Plates and Initiate a Registration Plate Working Group*, sponsored by Sen. Bill Diamond of Cumberland County, seeks a solution to the overwhelming number of specialty plates that state and local officials must administer. While a

strategy is formulated, there will be a two-year moratorium on approval of any new specialty license plates. The Bureau of Motor Vehicles working group will provide a report of findings and recommendations to the Transportation Committee by Feb. 1, 2022.

Solar Arrays: Similar to the proliferation of specialty license plates beyond imagination, solar arrays have started appearing around the state in potentially less than ideal locations. The state’s lack of oversight or strategic plan has opened the door to the installation of solar arrays on highly productive agricultural land, potentially reducing Maine’s capacity to grow and harvest food. Furthermore, constructing solar arrays on agricultural land that already enjoys property tax advantages creates concern that some property owners might unfairly double-dip into the tax benefits, shifting additional burdens onto other property owners.

Increasing pressure for solar development and the desire among farmers to stabilize seasonal incomes rub against Maine’s established programs to preserve farmland sparking the need for LD 820, *Resolve, To Convene a Working Group To Develop Plans To Protect Maine’s Agricultural Lands When Siting Solar Arrays*, sponsored by Sen. Ned Claxton of Androscoggin County. The working group convened by the Department of Agricultural, Conservation and Forestry will consider ways to discourage the use of land of higher agricultural value and encourage the use of more marginal agricultural lands when siting a solar array. The department will report out recommendations, including suggested legislation, to the committees on Energy, Utilities and Technology, Environment and Natural Resources, and Agriculture, Conservation and Forestry no later than Jan. 14, 2022.

Site Law Permit Applications: The

Department of Environmental Protection is responsible for reviewing new, revised and amended permit applications submitted under Maine's site location of development laws. At present all parties involved are dissatisfied with the length of time it takes the department to review such applications. Past legislative attempts have focused on reducing the department's workload in order to expedite the process, but legislators are now interested in finding ways to increase the capacity of the department without lessening the load.

According to Maine DEP, site law applications have a guaranteed processing time of 150 days, yet in the past 10 years the average processing time is just over 160 days. When asked what the department needs to accomplish this in 90 days, one official said, "You'd need more than an army of people. Even amendment applications take more than 90 days."

An amended version of LD 1415, *Resolve, To Direct the Department of Environmental Protection To Determine Staffing Needs To More Efficiently and Effectively Issue Decisions on New, Amendment and Minor Revision Applications*, sponsored by Sen. Catherine Breen of Cumberland County, directs the department to internally determine its staffing needs for permit review and to make recommendations to the Committee on Environment and Natural Resources by Nov. 1, 2021. MMA fully supports increasing the department's capacity because the alternative solution is the state passes responsibility for permit review onto municipal officials who do not have the resources nor the expertise necessary to perform the task in all communities.

Timber Harvesting: Maine has a lot of trees and municipalities enjoy home rule authority over them. For centuries residents and harvesters have responsibly co-existed in most municipalities. One reason for this cooperation between stakeholders is that local ordinances to regulate or restrict forestry practices are stronger

than state restrictions because they require a robust public engagement process that includes foresters and the Forest Service. That could all change depending on the outcome of a new study that assesses the practicality of preempting local control with a predetermined set of forestry practices for timber harvesting, regardless of local ordinances.

LD 1407, *Resolve, Regarding Authority of Municipalities To Regulate Timber Harvesting*, sponsored by Sen. Russell Black of Franklin County, creates a stakeholder group to review and assess the local laws and municipal processes of adopting or amending a timber harvesting ordinance. Some parties would like to restrict municipalities from limiting or prohibiting any generally accepted forest management practice. Others oppose the idea because it could lead to widespread disregard for local preference; often what is an agreeable forest practice in one community is an adverse action in another. The stakeholder group will report back to the Committee on Agriculture, Conservation and Forestry with findings and recommendations by Dec. 15, 2021.

Transit: Mainers are tired of not being able to get there from here. This is because public transit options are practically nonexistent between Maine's service centers. Thus, the Legislature is conducting two overlapping studies to determine the feasibility and economic impact of developing transit corridors northward from Portland.

LD 991, *Resolve, Directing the Department of Transportation To Conduct an Economic Evaluation Study for Commuter and Passenger Train Service between Portland and the Lewiston and Auburn Area*, sponsored by Sen. Ben Chipman of Cumberland County, will organize an economic evaluation for rail service from Portland to the Lewiston and Auburn (L/A) area. Such a corridor would reduce greenhouse gas emissions from fewer cars on the road, connect L/A to all rail service in the Northeast, extend needed travel options to commuters and visitors, and bring numerous benefits to communities situated along the corridor.

A second transit study is being conducted on a much lengthier corridor stretching from Portland to Bangor.

LD 227, *Resolve, To Conduct a Transit Propensity Study for Communities between Portland and Bangor*, sponsored by Sen. Ned Claxton, seeks similar answers as the study measuring feasibility between Portland and L/A. Both studies will report back to the Transportation Committee, the first by March 1, 2022, and the second by Jan. 1, 2023.

Discontinued Roads: Property taxpayers pay a lot for the maintenance of local roads, and some at the state level are intent on forcing that amount to increase. By the request of the Committee on State and Local Government, numerous legislators, MMA staff, and public stakeholders will be deliberating the feasibility of municipalities maintaining discontinued roads if they provide access to at least one resident. At hand is a potential to redefine municipal responsibilities over discontinued and abandoned roads for which a public easement is retained.

Municipalities already pay \$276 million to maintain and repair roads and bridges. As a portion of total expenditures, municipalities between 3,500 and 4,999 residents pay the most for road maintenance. Those communities commit about 10% of their expenditures to such activities. Residents in those communities pay \$361 per person more than any other Mainers for road maintenance.

LD 1513, *An Act To Require the Maintenance of a Discontinued Public Road That Provides the Sole Access to One or More Residences*, sponsored by Rep. Daniel Newman of Belgrade, and carried over to the second session, is the impetus of the informal study group. From the municipal perspective, this bill is a mandate that overrides local decisions for public works expenditures to benefit individuals who knowingly purchased property on such roads simply because a public easement exists, often as a result of state policy. ■