

Revenue Sharing Bill Becomes Law

The bill to protect the municipal revenue sharing program from any additional legislative raids for the next fiscal year (FY 2015) became law on Wednesday this week. Although Governor LePage did not sign the bill, he allowed it to become law without his signature. Municipal officials fought hard for LD 1762, *An Act Related to the Report of the Tax Expenditure Review Task Force*. Now formally recognized as Public Law 2013, Chapter 451, this legislation repeals the built-in automatic \$40 million additional cut to revenue sharing that was included in the state budget enacted last June.

The revenue sharing statute directs the State Treasurer to post the projected revenue sharing distribution for FY 2015 on the Treasurer’s website by April 15. For now, MMA has projected the FY 2015 distribution using each municipality’s percentage share of the FY 2014 distribution as a proxy, and anyone interested in that spreadsheet should contact Kate Dufour at kdufour@memun.org. When posted, the Treasurer’s distribution will be somewhat different because her calculations will utilize more current population and property tax rate input data, but the differences should be relatively minor.

Democratic legislative leaders and the chairpersons of the Appropriations Committee exhibited a passion from early-on this session for keeping the budgetary commitment to revenue sharing and eliminating the built-in reduction of another \$40 million.

Municipal officials and many local residents from communities throughout the state raised our collective consciousness about the negative property tax impacts of some decisions that are made in Augusta. The importance of honoring commitments for programs like revenue sharing, which form the foundation of the

state-municipal partnership, came through loud and strong.

Finally, legislators in both chambers

joined together for strong, bipartisan votes in support of this legislation.

Thanks to all.

The Maine Municipal Association wishes to thank everyone for their help in this effort.

Tax Committee Recommends Favorable Mitigation of “Appraisal Report” Mandate

The Feb. 14 edition of the Legislative Bulletin provided a status report on LD 1627, *An Act To Amend the Reporting Requirements for the Business Equipment Tax Exemption*. As printed, LD 1627 repeals certain information-reporting mandates imposed on businesses in Part O of the state budget enacted last June.

Specifically, LD 1627 as printed would repeal the “income and expenses” reporting obligation that Part O created for all large industrial and commercial businesses when they file annually for their property tax exemptions under the Business Equipment Tax Exemption program (BETE).

From the municipal perspective, LD 1627 failed to address the elements of Part O that mandated all the municipalities that host large industrial and commercial properties to prepare “appraisal reports” for each of those properties no less often than every five years. These newly required “appraisal reports,” which cost serious money when purchased in the marketplace, must detail the taxable value of those properties using all three analytical approaches (comparable sales, cost less depreciation, and the income approach).

Since the state is now mandating the production of these expensive “appraisal reports” for all the largest industrial and

commercial properties, and since each appraisable report must include an analysis of the property using the income approach to value, the requirement that the businesses provide regular income and expense data to the municipal assessors made some sense.

In short, in its printed form, LD 1627 retains the municipal mandate but takes away the tool for the municipal assessors to comply with the mandated requirements.

On Wednesday this week, the Taxation Committee held a work session on the bill which resulted in a compromise approach that revisits and relaxes the mandates established by Part O in the budget on both the business and municipal communities.

With a unanimous “ought to pass as amended” report, the Taxation Committee’s re-write of LD 1627 has just two parts.

Step 1. Repeals all elements of Part O that amended BETE law. Part O of last year’s state budget established the appraisal report mandate for two purposes.

For all high-value industrial/commercial properties that equal or exceed 2% of the municipality’s total valuation, an appraisal report needs to be prepared in order to remain eligible for:

- The expedited “sudden and severe” state valuation adjustments in the event of

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“Appraisal Report” (cont’d)

a very large reduction in that property’s value.

• And, the so-called “enhanced BETE reimbursement,” which is reimbursement over the constitutionally-required 50% level that is provided by statute to municipalities that have a significant amount of machinery and equipment and other forms of business personal property in their tax base.

LD 1627, as approved by the Taxation Committee, repeals all elements of the Part O mandates that are related to the BETE program. Although the municipalities would still have to prepare appraisal reports to protect their eligibility for the “sudden and severe” disruption program, they would no longer be required to develop and maintain those appraisal reports to ensure their eligibility for enhanced BETE reimbursements. Similarly, the affected businesses would not be required to submit their income and expense information when they apply each year for their BETE reimbursement.

Step 2. Modernizes the taxpayer information reporting requirements in Section 706. Because the “appraisal report” mandate remains in the “sudden and severe disruption” law, the Taxation Committee agreed that a clear and specific requirement needs to be provided in law compelling the owners of those large industrial and commercial properties to provide the company’s income and expense data to those assessors when asked. For that reason, “Section 706” of the state’s property tax code undergoes a thorough brushing-up in the bill.

Last updated 33 years ago, section 706 of Title 36 is very old statute which is chock full of archaic terminology and casts all taxpayers and assessors alike in terms of masculine pronouns. Section 706 is the statute that controls the type of information that municipal assessors can ask for and receive from taxpayers, but the closest it gets to any specifics is to “require him (the taxpayer) to answer in writing all proper inquiries as to the nature, situation and value of his property liable to be taxed...”

Without disturbing the structure of section 706, the Tax Committee’s report on LD 1627 would flush out some of the archaics, recognize that not everyone in

the world is a man, and put specifics into the law authorizing municipal assessors to obtain information from owners of commercial and industrial properties about income and expenses, manufacturing or operational efficiencies, manufactured or generated sales price trends or other related information. The rewrite of section 706 also establishes the time frame

within which the business owner must respond to the assessor’s inquiries and submit the information. The rewrite also provides a comprehensive confidentiality provision to ensure that all proprietary information given over to the assessors is entirely confidential and not subject to inspection, sharing or distribution under Maine’s Right to Know law.

Take Two - Cemetery Maintenance Bill Gets Second Hearing

On Wednesday of this week, the State and Local Government Committee convened to hold a second public hearing on LD 1662, *An Act to Clarify the Law Governing the Maintenance of Veterans’ Grave Sites*. The bill, sponsored by Sen. Chris Johnson (Lincoln County), seeks to relieve municipalities of a costly unfunded mandate that was developed by a majority of the State and Local Government Committee (SLG) and finally enacted by the Legislature in 2013.

As described in greater detail in the Jan. 31 edition of the Legislative Bulletin, Public Law 2013, Chapter 421 required all municipalities to maintain “in good condition and repair” the graves, headstones, monuments and markers of all veterans in public cemeteries and “ancient burying grounds,” whether municipal or private, according to state prescribed standards that include full-scale stone management. Municipal responsibilities were further extended to keeping the grass, weeds, and brush suitably cut and trimmed on all graves located in ancient burying grounds, whether municipal cemeteries or not, and whether the graves are veterans’ graves or not.

LD 1662 seeks to relieve municipalities of some of that mandate’s pressure by: (1) limiting the maintenance mandate to veterans’ graves located in public and ancient burying grounds; (2) authorizing municipalities to work in collaboration with veterans’ organizations, cemetery associations, civic and fraternal organizations and other interested parties to meet the legislative charge to keep in good condition the graves, headstones, monuments and markers of all veterans; and (3) requiring municipalities to adopt “good condition and repair” standards for the maintenance of veterans’ graves.

Prior to Wednesday’s hearing, the bill had already been heard by the members of the Legislature’s Veterans and Legal Affairs Committee. After receiving the public testimony, the Committee decided that since the SLG Committee had played a role in the design and enactment of the law in 2013, those members were better suited to evaluate any proposed amendment to the law enacted last year.

As expected, on Wednesday the SLG Committee received testimony from the most affected interested parties, including MMA, Maine Department of Defense, Veterans and Emergency Management, veterans, cemetery association members and a board certified Maine genealogist.

What was unexpected, however, was that the testimony offered in all categories, including support, opposition and “neither for nor against”, was somewhat similar.

Somewhere within the testimony offered by all of the participants was a commitment to working with the communities to ensure that veteran graves, as well as ancient burying grounds, are properly maintained. In many cases, the testimony included examples of how communities across the state are working with volunteer organizations and associations to properly maintain thousands of cemeteries dotting Maine’s landscape. Efforts by some communities to create cemetery restoration funds and programs were lauded. There were several expressions of interest in assisting municipalities to meet the mandates, and suggestions for how the bill could be amended to ensure that municipalities and their property taxpayers are not overly burdened by the enacted maintenance standards. In addition, one member of the public cautioned the Committee from expecting results

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Attorney General's Foreclosure Report

Dedicates Municipal Tax Lien Foreclosure Proceeds to State Treasury

This past summer we were contacted by the Attorney General's (AG's) Office to see if MMA was interested in participating in a working group, but not as a formal member, to study the issue of mortgage foreclosures in Maine and the subsequent foreclosure-related problems that can occur with effectively abandoned property. MMA obliged, and conducted a survey of municipal officials to identify foreclosure-related issues that impact local government to assist the Working Group's deliberations.

Of the 63 municipal responses to that survey, 37 (59%) indicated the community had experienced problems with the impacts of mortgage foreclosures. After property value impairment, the most significant municipal issue identified in the survey was the difficulty municipal officials had when trying to contact the appropriate bank representatives in attempts to slow the bank foreclosure or get pertinent information for the impacted homeowner or community.

The AG's formal working group included representatives of Pine Tree Legal, Maine Bankers Association, Maine Realtors Association, Maine Bureau of Consumer Credit Protection, Maine's Judicial System, Maine Credit Union League, CAP agencies, Coastal Enterprises, Inc., Maine State Housing Authority, Legal Services for the Elderly, Bank of America, JPMorgan Chase, and various attorneys with foreclosure experience.

On Jan. 30, the Attorney General presented her Foreclosure Report to the Legislature's Judiciary Committee. The report recommends 18 actions aimed at improving the handling of property foreclosures in Maine. None of the recommendations reflect municipal input, and at least one of the AG's recommendations comes as a complete surprise to MMA. The recommendation (Part E) comes as a surprise because it is directly related to municipal government even though nothing in the Working Group process suggested that this particular municipal issue, which is related to tax lien foreclosures, was under consideration or part of this Working Group effort.

Some of the recommendations require legislative implementation and the result-

ing legislation, presented as an amendment to LD 1389, An Act To Expedite the Foreclosure Process, has just been released and is available at the following website: <http://www.maine.gov/legis/opla/JUDLD1389proposedamd%202-24-12.pdf>

The proposed legislation contains several provisions to speed up the foreclosure process in Maine. Most of the elements in the package of amendments to LD 1389 focus on the mortgage foreclosure process. Two elements of the AG's proposed amendments, however, pertain to the municipal tax lien foreclosure process.

One of these elements, Part E of the package, includes an authority for municipalities to adopt an ordinance that would provide the former owner of property foreclosed by municipal property tax liens 50% of the net proceeds that may be generated by the municipal sale of the foreclosed property. The proposal compels the state to participate in such a process with respect to property that undergoes tax lien foreclosure in the unorganized territory (UT).

Specifically, Part E of the AG's amendment authorizes municipalities to adopt ordinances providing for the return of proceeds from the sale of tax-acquired property to the property's former owner, on the condition that such ordinances require half of the sale's net proceeds to be returned to the former owner. If the former owner cannot be located by the municipality or does not otherwise request the return of the proceeds within 90 days of the foreclosure sale, the municipality is required to remit those proceeds to the State Treasurer, who is then required to distribute the funds to the state Bureau of Consumer Credit Protection's "housing counselor" program. Finally, although it appears that the intent of the AG's proposal is to repeal the part of the bill diverting the 50% share of the proceeds to the state's Bureau of Consumer Credit Protection after five years have elapsed (by Jan. 1, 2019), the actual wording of Part E repeals the entire legislative proposal five years from now, including the municipal authority to adopt local ordinances to return the proceeds from the sales of tax acquired property to the former owners as well as

the parallel procedure conducted by the State Tax Assessor in the UT.

Nothing with respect to municipal tax lien foreclosure proceeds was raised during the working group process of which MMA was a part. In fact, MMA's central theme in its discussions with the AG's office was that any recommendations regarding municipal foreclosures ought to better enable municipalities' ability to recoup the losses they normally incur when managing foreclosed properties. As MMA explained, municipalities typically expend far more on the maintenance and disposition of foreclosed properties than they recover from foreclosure sales. Instances where a town receives more from the sale than the public's investments are extremely rare. In addition, as a matter of law and fundamental fairness, these "proceeds" belong to the inhabitants of the municipality that have been carrying the tax delinquencies, not the state's treasury.

The AG's working group procedures are unlike any that MMA has ever participated in before. Working groups typically involve some level of collaborative and communicative procedures prior to issuing a final report, but not in this case.

The other tax lien foreclosure element of the AG's amendments reduces the amount of time a person can challenge the validity of a governmental taking of property for nonpayment of taxes from 15 years following the period of redemption to five years.

MMA's 70-member Legislative Policy Committee is currently reviewing the AG's proposed recommendations and formulating its position. The public hearing on these recommendations is scheduled for Wednesday, Mar. 5, at 1 p.m. before the Judiciary Committee.

Legislative Bulletin

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Editorial Staff: Geoffrey Herman, Kate Dufour, Garrett Corbin and Laura Ellis of the State & Federal Relations staff.

LEGISLATIVE HEARINGS

Tuesday, March 4

Appropriations & Financial Affairs

Room 228, State House, 1:00 p.m. | Tel: 287-1316

FY 2014 portion of Supplemental Budget – initiatives or potential funding sources under consideration for inclusion.

(Funding requests and potential funding sources for each year of the biennium are unknown at this time. The documents will be posted on Office of Fiscal and Program Review website by the afternoon of Saturday, Mar. 1:

http://www.maine.gov/legis/ofpr/appropriations_committee/materials/index.htm)

Energy, Utilities & Technology

Room 211, Cross State Office Building, 3:30 p.m. | Tel: 287-4143

LD 1784 – An Act To Reform Regulation of Consumer-owned Water Utilities.

Wednesday, March 5

Appropriations & Financial Affairs

Room 228, State House, 1:00 p.m. | Tel: 287-1316

FY 2015 portion of Supplemental Budget – tax related initiatives only.

Transportation

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

LD 1788 – An Act To Make Supplemental Allocations from the Highway Fund and Other funds for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2014 and June 30, 2015.

Thursday, March 6

Appropriations & Financial Affairs

Room 228, State House, 1:00 p.m. | Tel: 287-1316

FY 2015 portion of Supplemental Budget – Non-tax related initiatives.

Friday, March 7

Appropriations & Financial Affairs

Room 228, State House, 10:00 a.m. | Tel: 287-1316

FY 2014 and 2015 Supplemental Budget proposals for an “across the board” decrease in appropriations except for debt service, General Purpose Aid to Education and direct “all other” appropriations for retirement.

Cemetery Maintenance (cont'd)

overnight, as time and public buy-in are important factors in the process of developing a successful and sustainable cemetery maintenance program.

Although there was an occasional comment suggesting that some communities remain unaware of the maintenance mandate, or worse yet, are ignoring their responsibilities, in nearly all cases, the efforts undertaken at the local level to meet the state mandate were praised. It is a change in rhetoric for which MMA is grateful.

The fate of LD 1662 now rests in the hands of the Committee, which will take a position on the bill next Wednesday, March 5.