

Governor LePage Gives MMA a Shout-Out in his State of the State Address

On Tuesday evening this week, Governor LePage delivered his 2015 State of the State address to the Maine Legislature and citizens of Maine. As expected, the message was primarily focused on the comprehensive tax reform elements included as part of his proposed FY 2016-2017 General Fund budget. Municipal officials were caught off-guard by the vehemence of his disapproval for the state’s association of towns and cities (the Maine Municipal Association) and, by extension, the town and city leaders who govern that association. In the Governor’s view, Maine’s selectmen and town and city councilors, or the association that represents them, are obstructing his policies and opposed to the interests of Maine’s taxpayers.

What follows is the transcript of the Governor’s speech on that subject. Some of our responses to the Governor’s observations are provided in footnote commentary.

You know, local officials care about municipal budgets. And they ought to. I was a mayor. They take money from Mainers to grow the city, the town or the town office. I care deeply about the people who live in those towns. I want to give Mainers their hard-earned money back. Someone must lobby for the Maine taxpayers. [footnote #1]

The Maine Municipal Association is supposed to represent cities and towns. MMA is not a taxpayer-friendly organization. I found that out in 1998 when I became a city councilor in the City of Waterville. Its mission is to protect local officials – not local taxpayers. Your local officials pay dues to MMA with your tax dollars. MMA uses those dues to fight for bigger and more expensive local government. [footnote #2]

I, since 1998, have never, I have never seen the MMA say “let’s cut taxes” and if you heard it, let me correct myself, but I have never heard it. I have never read it in their documentation. I have never read it in their flyers. I read their agenda today, and there was absolutely nothing in their agenda for this coming session that lowers taxpayers’ burden. Not a penny. [footnote #3]

The only burden that I saw today is “get rid of this budget, it’s bad.” I’m sorry, but I will stand here and say to you again, I represent the Maine people. [footnote #4]

I think we should call them the Middle Man Association, because they pit local taxpayers against local officials. Never do they try to get them to work together. And that’s very, very concerning. They fight against any kind of tax reductions. [footnote #5]

Give you an example, in Waterville, the city manager worries about losing one-million-dollars in revenue sharing. Neighboring Winslow gets roughly \$500,000 in revenue sharing. That’s all that you’ve been hearing the last two or three weeks. But residents of Waterville and Winslow combined are paying 17-million-dollars in income taxes. That’s what I am worried about. That’s the pockets I want to make sure they fill, with their own money. I ask them: would you trade 1.5 million dollars or a little more property taxes to save 17 million dollars in your pockets? You know, when I was at Marden’s I’d have taken that deal all day long. [footnote #6]

You know over the years, and many of you who’ve been here many years and many terms know that there have been many property tax relief programs that have passed this house, and passed referendum, and each and every one of them has

failed. When LD 1 was passed, the State of Maine had 37% of its General Fund go to communities. In 2015, the current budget, 37% of General Fund revenue are going to communities. Nothing has changed, and property taxes have been spiraling upwards. And I will tell you as a mayor, or as the Governor, or as a businessman, I have never entered a company and haven’t been able to find 10% right off the top. Because when you’re so close to the trees and you miss the forest, there’s a lot of inefficiencies that are low hanging fruit. [footnote #7]

So programs to lower property taxes should benefit homeowners – not government offices. My plan expands the Property Tax Fairness Credit. That helps low-and middle-income homeowners. We double the Homestead Exemption for our senior citizens. They work all of their lives for their homes, and I want to make sure they stay in it for as long as they want.” [footnote #8]

We are trying to identify all other sources of revenue that communities can have. We are giving them the telecommunications excise tax. We are allowing them to collect tax revenue from larger non-profits. Surely, these large non-profits provide good services. However, they are also large users of services. And I think that they should pay a little bit. I understand that it’s distasteful to tax non-profits, but they have to contribute because everyone that works at non-profits is going to be a benefactor and benefit greatly from our plan. There’s going to be a lot more revenues in the market place that can be donated to charitable organizations, so I think that they need to help us do their share and their part in moving our

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state forward. For our state to prosper, everyone has to pitch in. Working-class Mainers cannot do it alone. [footnote #9]

Footnote #1

Local officials care very much about their municipal budgets. On that point, the Governor is correct. As is the case with any government's budget, municipal budgets serve to identify the community's most important priorities (although state mandates have the effect of "crowding out" local priorities in local budgets with priorities considered more important by state government).

Boards of selectmen, town and city councils, and finance committees, all of which are made up of volunteers or elected officials serving at volunteer wages, spend collectively thousands of thankless hours developing budgets that strike the right balance for their community. The balancing act is between the services that need to be provided and the tax resources available and necessary to provide them.

Months are spent by these committees, boards and councils tearing down and rebuilding the draft budgets, conducting public hearings, deliberating over expenditures from the biggest ticket items (e.g., plow trucks, replacement boilers, road and bridge improvements, etc.) all the way down to the paper clips.

Unlike state government, local governments do not have an array of broad-based tax resources to fund their budgets. Local governments have the property tax. The availability of non-property tax resources has become a completely unpredictable guessing game. Will revenue sharing be distributed as the law requires, at the 0% level or somewhere in between? Municipal committees anxiously wait to hear from school committee members about how state level decisions regarding K-12 funding will impact local property taxpayers. By how much will the Legislature reduce the Local Road Assistance Program this year?

Once all the numbers are placed in the appropriate lines, the budget recommendations are finalized and presented to the local legislative body for more public hearings and final adoption. At that point, the information sharing and budget explanations begin all over again. In 65

communities, final adoption is in the hands of a town or city council. In 425 towns, the voters make their spending decisions directly at town meeting.

This is the process that the Governor describes as "local officials taking money from Mainers to grow the town office?"

Of the approximately \$2 billion that are collected each in year in property taxes, about \$1.4 billion, or 70% of the total, is raised at the demand of the school systems and the 16 counties. The remaining property tax dollars, approximately 30% of the total, pay for a variety of local services, including "town office" functions. Those functions, incidentally, include locally provided services that collect state revenue which is dutifully sent to the state treasury, such as sales of hunting and fishing licenses, dog licensing, motor vehicle and recreational vehicle registrations, etc.

The news in recent weeks has been dominated with images of public works crews fighting to keep Maine's roads open, and teams of firefighters and EMS providers working collaboratively across large multi-municipal regions to put out the nastiest of house and barn fires under the most extreme winter conditions. The local budgets to which the Governor refers make all that possible, as well as the economic development programs that enable state sales and income tax revenues to be both generated and collected, the disposal of all solid waste generated in the state, the code enforcement, animal control and public health programs required by state law to be locally administered, and the recreational, parks and library programs that keep residents mentally and physically healthy.

Footnote #2

The Maine Municipal Association is a non-profit, non-partisan, voluntary membership organization established in 1936 by Maine's boards of selectmen and town and city councils in an effort to regionalize the provision of professional services municipalities rely on, including advocacy, legal advisory services, professional education and training programs for municipal employees, human resources and insurance services. The decision to annually pay membership dues and receive the varied services provided by the Association is entirely up to the local

legislative body, either the town or city council or town meeting. Currently, 487 (99%) of the state's 492 communities are members of the Association.

Not only was the organization created by local officials, it is governed by a 12-member Executive Committee. Members of the Executive Committee are elected by the boards of municipal officers of all member municipalities. The positions the Association takes on legislative matters, including the Governor's budget, is established by its 70-member Legislative Policy Committee (LPC). The LPC is comprised of two municipal officials from each of the state's 35 Senate districts elected to serve by the boards of selectmen and town and city councils in their respective State Senate districts. A list of current Executive Committee and LPC members is printed on pages 6 and 7.

Footnote #3

In this section of his address, Governor LePage suggests that Maine's municipalities have never worked to reduce Maine's tax burden. The overall tax burden of the state is the absolute and unequivocal prerogative of the state Legislature under Maine's Constitution.

For their part, and contrary to the Governor's implication, Maine's municipal officials have worked very hard over the course of many decades to reduce the tax burden on the state's property taxpayers, which are saddled under Maine's current tax code with the highest burden among the state's three major taxes. Here's a short list of those efforts spanning 40 years.

- In the mid-1970s, MMA convinced the Legislature to advance to the voters a proposed amendment to the state's Constitution that requires the Legislature to reimburse Maine's property taxpayers at least 50% of the property tax revenue that is lost because of the property tax exemptions that are so easily enacted by Maine's lawmakers. That provision in the state's Constitution has clearly prevented the serious erosion of the statewide property tax base and protected the Maine's property taxpayers.

- In the mid-1980s, MMA lobbied with others to create the Circuitbreaker property tax and rent relief program. The Circuitbreaker program was very successful and has been recently replaced with the

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similarly designed Property Tax Fairness Credit, which the Governor is significantly expanding in his proposed budget for the purpose of providing tax relief.

- In 1992, MMA convinced the Legislature to advance to the voters an amendment to the state's Constitution that limits the ability of the state to pass onto the towns and cities expensive state mandates. The stated purpose of that constitutional amendment is to "more fairly apportion the costs of government" and help protect Maine's property taxpayers.

- In the 1990s, MMA on its own championed a comprehensive tax reform proposal quite similar to what the Governor is now proposing, that would, among other results, create a \$20,000 Homestead property tax exemption. Coincidentally, the Governor in his proposed budget is proposing to increase the current Homestead exemption to a value of \$20,000 for Maine's senior homesteaders for the purpose of providing property tax relief.

- From 2002-2004, MMA advanced the initiative for state government to provide 55% of the cost of K-12 education in accordance with the statutory goal established by the Legislature in 1985. The voters established this directive in 2004 for the purpose of providing property tax relief. The Legislature has ignored the voters' directive.

- In almost every legislative biennium, including 2007 and 2009, MMA submitted legislation to expand the ability of municipalities to charge tax exempt institutions certain service fees to help pay for some of the municipal services exempt entities receive, thus providing property tax relief to Maine's residents in a manner not that dissimilar from the proposal in the Governor's budget.

Legislative Bulletin

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

Subscriptions to the *Bulletin* are available at a rate of \$20 per calendar year. Inquiries regarding subscriptions or opinions expressed in this publication should be addressed to: *Legislative Bulletin*, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330. Tel: 623-8428. Website: www.memun.org

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

Footnote #4

The Governor's claim is that MMA is dedicated to opposing his proposed budget. Since the publication of the Governor's budget on January 9, MMA has published three articles in its Legislative Bulletin describing the impacts of the proposal on municipal governments and property taxpayers. The data has been presented in a factual way, intended only to provide the basic information municipal officials need to conduct their own local level impact studies. In each article, MMA positively acknowledged the efforts of the Governor.

Specifically, in the Jan. 16, 2015 edition, MMA staff wrote: *"To be fair, the \$723 million biennial reduction in income tax revenue includes a \$63 million expansion of the Property Tax Fairness Credit. In summary, the proposed increase to the property tax fairness credit would bring that particular form of property tax relief up to and somewhat beyond the now-repealed Circuit Breaker program."*

On Jan. 23, the MMA newsletter stated, *"Although the municipal community may not agree with all the ingredients in the Governor's recipe, or in some case their respective proportion, the very fact that the Legislature has been given this task to undertake is both positive and exciting, and the municipal community wants to engage."*

And again on Jan. 30, 2015, MMA staff wrote, *"MMA's 70-member Legislative Policy Committee appreciates Governor LePage's willingness to take comprehensive tax reform by the horns. Although the Governor's proposal as it currently stand focuses on lowering the income tax burden by expanding the sale tax base and rate, municipal officials remain optimistic and look forward to engaging in the process of developing a comprehensive tax reform plan that treats all taxpayers in an equitable and balanced manner as well as all levels of government engaged in the delivery of public services."*

Also, in the days before the Governor delivered his State of the State address, the Bangor Daily News published a contribution by MMA praising the Governor for putting comprehensive tax reform front-and-center before the Legislature and urging a solid consideration of many of his proposals. A link to that contribution is provided here: <http://goo.gl/NOIPeF>

Footnote #5

The primary focus of MMA's State and Federal Relations staff is to act as a conduit of information – a liaison – between the state's lawmakers and Maine municipal leaders who are unable to monitor the actions of state government on a daily basis. Each month while the Legislature is in session, the Association's 70-member Legislative Policy Committee convenes to discuss legislative initiatives of municipal significance and determines the Association's position on those proposals. Staff then communicates the municipal positions to the legislators and the legislative response to municipal officials through Association publications, most notably the weekly Legislative Bulletin.

The Governor's suggestion that the Association, at least in its advocacy function, might be more aptly called the "Middle Man Association," is on point. As defined by Merriam-Webster's Online Dictionary, a middleman is "a person who helps two people or groups to deal with and communicate with each other when they are not able or willing to do it themselves." Synonyms include "broker, go-between, intermediary, liaison, emissary, delegate and representative," all of which describe the role of MMA's advocacy staff.

Footnote #6

The Governor's argument that the residents of Waterville and Winslow would receive \$17 million in income tax relief in exchange for \$1.5 million in revenue sharing is a pretty clear example of apples-to-something-other-than-apples political rhetoric.

The claim suggests that the \$1.5 million in revenue sharing sent to the two communities is transformed by the Governor's proposal into \$17 million of tax relief through some water-to-wine alchemy. That's not the case. The apples-to-apples description is what the Governor is proposing with the expanded Property Tax Fairness Credit. In that case, he is taking approximately \$60 million (the current revenue sharing distribution) and using it to expand benefits under the Property Tax Fairness Credit. Evaluating that exchange is fair. Should revenue sharing be eliminated, property taxes go up, and the program providing an income tax credit to low income households be expanded to,

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at least in theory, help them pay for the increased property taxes?

With respect to exchanging relatively small amounts of revenue sharing for an elimination of all income taxes, the evaluation is entirely unbalanced. Using statewide numbers, the Governor's interest in eliminating the state income tax will require convincing lawmakers over time to either give up or somehow replace \$1.2 billion in revenue each year that is used to provide a wide range of state governmental services. Repealing the revenue sharing statute to help balance the state budget in the early years of implementing that policy is only a first baby step... the tip of an unknown iceberg. The tail on the Governor's proposal grows much larger over time, and the public policy consequences of eliminating the income tax will require much more in the way of trade-offs than the 17:1 ratio referenced by the Governor.

Footnote #7

The Governor's claim that previous property tax relief programs have failed is perplexing. The municipal community would argue that the complement of property tax relief programs enacted in the past, including municipal revenue sharing, the Homestead property tax exemption, and the Circuitbreaker property tax relief and rent rebate program

(now the Property Tax Fairness Credit) were extremely effective in countering the state's overreliance on the property tax and should not be dismantled. The Governor himself is proposing to increase the Property Tax Fairness Credit and, at least for some, the Homestead property tax exemption, so he can hardly think of those programs as failures.

With respect to the Governor's claim that property taxes have been "spiraling upwards," the data shows that the claim is entirely inaccurate with respect to municipal government.

As shown in the table below, between 2008 and 2012, spending on all local government services (including school, county and municipal) increased by \$240 million, or by roughly 2% per year. Of that increase, \$200 million (83%) was for K-12 educational services. Those increases just happen to coincide with the state's retraction from its commitment to pay for 55% of the cost of K-12 education. In 2008, the state's share of K-12 education was \$978 million (52% of the total), and in 2012 the state's contribution was \$889 million (45% of the total).

Although spending on education has increased by 19% during the five year period, spending on municipal governmental services has been essentially flat.

During the same five year period, total spending on municipal services excluding education and county government grew by just 2%, or 0.4% per year. Within the

various categories of municipal functions, general administration, code enforcement, human services, parks and library services decreased by 10% over that period of time, falling from \$473 million in statewide expenditures in 2008 to \$428 million in 2012. Although investments in combined public safety and public works increased from \$649 million in 2008 to \$668 million in 2012, the 3% increase over a five-year period is extremely modest.

As a result of this reality, municipal officials question which "low hanging fruit" services at the municipal level the Governor believes can be cut to achieve a property taxpayer savings of at least 10%.

Footnote #8

The Governor expresses support for targeted tax relief programs. Municipal officials have long supported programs designed to not only reduce the burdens placed on the property taxpayers but to target that relief in various ways, either to low-income residents in one program, or to Maine's primary residents even if not of low income, in another. Municipal officials support increasing the punch of the Property Tax Fairness Credit which was a very weak replacement of the Circuitbreaker relief program when it first came out of the chute. The funding increases for this program in the Governor's proposal would return the program to the historical funding levels provided

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Local Government Spending 2008 & 2012

	2008	2012	2008-2012	
			\$ Change	% Change
General Administration	\$377,855,068	\$339,427,873	\$(38,427,195)	-10%
Public Safety	\$272,036,157	\$273,731,142	\$1,694,985	1%
Public Works	\$377,191,564	\$393,906,508	\$16,714,944	4%
Code/Human Services	\$25,006,301	\$23,107,612	\$(1,898,689)	-8%
Parks/Library	\$70,192,975	\$65,321,073	\$(4,871,902)	-7%
K-12 Education (Local Only)	\$1,060,307,905	\$1,259,327,585	\$199,019,680	19%
County	\$111,457,117	\$129,882,292	\$18,425,175	17%
Debt Service	\$122,242,238	\$171,817,509	\$49,575,271	41%
Total	2,416,289,325	2,656,521,595	240,232,270	10%

Source: 2008 & 2012 Municipal Fiscal Survey, Maine Municipal Association

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under the Circuitbreaker program before its repeal in 2013, and then some.

Municipal officials are also supportive of expanding the Homestead Exemption program. The Governor did not explain his entire Homestead exemption proposal in the State of the State address. He accurately described the proposed increase in the value of the exemption for the elderly, from \$10,000 to \$20,000, but failed to mention his proposal to eliminate the \$10,000 Homestead exemption for 220,000 Maine households owned by persons under the age of 65. Age has no direct relationship on the ability to pay property taxes. Some residents over the age of 65 have considerable assets while others do not. Some residents under the age of 65 are struggling to get by while holding two or three part-time jobs, while others are less financially stressed. Policies for economic growth and prosperity should encourage efforts to attract younger residents and make it easier for younger families to own homes throughout Maine.

Footnote #9

The Governor's recognition that the elimination of municipal revenue sharing will likely result in higher property taxes is refreshing and his attempt to secure additional property tax base for the towns and cities to hedge against those impacts is appreciated.

And many municipal officials agree wholeheartedly with the Governor that large, very well financed tax exempt corporations and institutions with enormous financial assets should contribute more directly to their host municipalities in recognition of the municipal services they directly receive.

We believe the Governor's telecommunications tax proposal is solid, although it compensates for only a small amount of the revenue sharing loss. While it has been a full month since the Governor proposed his budget, zero information has been provided by state government, which currently taxes this property, as to where the property is located. In telephone lines, there's a little bit everywhere. The greatest taxable value, however, is in the electronic equipment on or near towers, and the location of that property

remains a mystery. We are told that in a couple of weeks that information may become available.

With respect to taxing exempt property, what the Governor is proposing is lopsided with respect to the "quid pro quo." Using his words, it is definitely not a deal he would have taken "all day long" at Mardens.

State law dedicates 5% of all state sales and income tax revenue to the Municipal Revenue Sharing Program, and under that law \$158 million would be distributed to the towns and cities in the next fiscal year. Over the last 6 years, the current and former Governor and the Legislature have been stepping on that law and raiding the revenue sharing program to prop-up the state's budget at the expense of the municipalities and their property taxpayers. In the current fiscal year, only 40% of the revenue sharing program is being honored... approximately \$62 million in distribution.

Those are the two targets by which to judge the Governor's proposal to replace revenue sharing with an expanded property tax base: \$158 million as revenue sharing is dedicated by law, or \$62 million as the actual distribution after state government "notwithstanding" its own law.

In either analysis, the expanded tax

base falls short, not only because of the value of tax resources generated, but also with respect to the way those tax resources would be distributed.

By our analysis, approximately \$45 million in tax revenue would be generated statewide from the expanded tax bases, with \$8.5 million coming from the new telecommunications tax base and \$37 million coming from tax exempt institutions. \$45 million is a long way from \$62 million and a very long way from the \$158 million revenue sharing dedication provided in statute.

The distribution of that \$45 million is also remarkably lopsided.

According to our analysis, the bulk of the \$45 million will be generated in 75 municipalities. In most of those communities, but not all, the expanded tax base would generate enough revenue to replace their revenue sharing losses at the current level of distribution. An additional 70-75 municipalities could pick up some replacement revenue under the Governor's proposal, but far less than their revenue sharing losses even at the current, much-reduced level of distribution. That leaves approximately 350 towns with little or nothing to show from this exchange of tax base for revenue sharing.

Easing Up On Variance Restrictions – How Loose Is Too Loose?

The State and Local Government Committee held its first public hearings of the session on Wednesday of this week. One of the bills heard, LD 46, *An Act To Allow Municipal Boards of Appeal To Grant Setback Variances for Certain Hardships Caused by Prior Owners of the Property*, proposes to relax one of five statutory thresholds that must be met before a Board of Appeals may consider granting a variance to single-family properties. The threshold targeted by LD 46 is the requirement that the issue creating the need for a variance did not result from actions taken by the applicant or a prior owner. LD 46 would eliminate the prior owner restriction.

Municipal officials appreciate the risk inherent in allowing exceptions to the law,

as laws that can be easily circumvented are not easily enforced. Removing the prior owner variance prohibition would unquestionably create some potential for abuse. All an owner might have to do to skirt existing zoning law would be to build in nonconformity with zoning standards and then convey the property for a brief time period to a friend or family member with an agreement that the property's ownership would be returned after the variance had been granted and the property issue had been dealt with.

That said, this section of law, Title 30-A section 4353, has come to be regarded by many as overly strict. The preference of municipal officials is for municipal Planning Boards and Boards of Appeals to

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MMA's 2014 – 2016 Legislative Policy Committee

LPC/Senate District 1:

Donald Guimond
Manager – Fort Kent
Christina Therrien
Manger – Madawaska

LPC/Senate District 2:

James Bennett
Manager – Presque Isle
Paige Coville
Chair of Selectboard – Island Falls

LPC/Senate District 3:

Elaine Aloes
Selectman – Solon
Richard Bartlett
Chair, Bd. Of Assessors – Madison

LPC/Senate District 4:

Matthew Pineo
Manager – Brownville
Jack Clukey
Manager – Dover-Foxcroft

LPC/Senate District 5:

Thomas Perry
Councilor – Orono
Dawn Adams
Manager – Milford

LPC/Senate District 6:

Harry Fish, Jr.
Selectman – Jonesport
Christopher Loughlin
Manager – Machias

LPC/Senate District 7:

Gary Fortier
Councilor – Ellsworth
James Schatz
Selectman – Blue Hill

LPC/Senate District 8:

Derik Goodine
Manager – Bucksport
James Smith
Assistant Manager – Brewer

LPC/Senate District 9:

*Bangor appoints 1 member
Nelson Durgin, Councilor – Bangor
Roger Raymond
Manager – Hermon

LPC/Senate District 10:

Michael Crooker
Manager – Glenburn
Donald Carroll
Selectman – Stetson

LPC/Senate District 11:

Kathy Littlefield
Chair of Selectboard – Waldo
Galen Larrabee
Chair of Selectboard – Knox

LPC/Senate District 12:

William Chapman
Chair of Selectboard – Rockport
Jay Feyler
Manager – Union
Stuart Smith
Selectman – Edgecomb

LPC/Senate District 13:

Harry Lowd
Selectman – Bristol

LPC/Senate District 14:

Curtis Lunt
Manager – Monmouth
Scott Morelli
Manager – Gardiner

LPC/Senate District 15:

Kelly Couture
Selectman – Sidney
*Augusta appoints 1 member
Cecil Munson, Councilor – Augusta

LPC/Senate District 16:

*Waterville appoints 1 member
John O'Donnell, Councilor – Waterville
Rosemary Winslow
Councilor – Waterville

LPC/Senate District 17:

Michelle Clark
Selectman – Temple
Richard Davis
Manager – Farmington

LPC/Senate District 18:

John Madigan, Jr.
Manager – Mexico
Gregory Buccina
Selectboard Chair – Rumford

LPC/Senate District 19:

Leonard Adler
Selectman – Otisfield
James Smith, III
Manager – Sebago

LPC/Senate District 20:

*Auburn appoints 1 member
Howard Kroll, Interim Manager –
Auburn
John Hawley
Manager – Mechanic Falls

LPC/Senate District 21:

*Lewiston appoints both members
Robert Macdonald, Mayor – Lewiston
Ed Barrett, Administrator – Lewiston

LPC/Senate District 22:

Mark Lunt
Councilor – Lisbon
Sarah Hall
Selectman – Durham

LPC/Senate District 23:

William Post
Manager – Bowdoinham
William "Bill" Giroux
Manager – Bath

LPC/Senate District 24:

Elinor Multer
Selectman – Harpswell
*Brunswick appoints 1 member
Sarah Brayman, Councilor – Brunswick

LPC/Senate District 25:

Claudia King
Councilor – Falmouth
Steve Moriarty
Planning Board – Cumberland

LPC/Senate District 26:

Louis Stack
Assessment Review Board Member –
Standish
David Nadeau
Councilor – Windham

LPC/Senate District 27:

*Portland appoints both members
Michael Brennan, Mayor – Portland
Jill Duson, Councilor – Portland

LPC/Senate District 28:

*Portland appoints 1 member
Ed Suslovic, Councilor – Portland
Paul Emery
Councilor – Westbrook

LPC/Senate District 29:

*South Portland appoints 1 member
James Gailey, Manager – South
Portland
*Cape Elizabeth appoints 1 member
Molly MacAuslan, Councilor – Cape
Elizabeth

LPC/Senate District 30:

Jean-Marie Caterina
Councilor – Scarborough
David Cole
Manager – Gorham

LPC/Senate District 31:

Larry Mead
Manager – Old Orchard Beach
Donald Pilon
Mayor – Saco

LPC/Senate District 32:

*Biddeford appoints 1 member
John McCurry, Jr., Councilor –
Biddeford
John Sylvester
Selectman – Alfred

LPC/Senate District 33:

*Sanford appoints 1 member
Steven Buck, Manager – Sanford
Douglas Hawkins
Selectman – Parsonsfield

LPC/Senate District 34:

Thomas Wright
Selectman – Berwick
Richard Morin
Selectman – Kennebunk

LPC/Senate District 35:

Torbert Macdonald, Jr.
Selectman – York
Perry Ellsworth
Manager – South Berwick

LPC Chair:

(10/14 to 12/15)
Stephan Bunker
Selectman – Farmington

MMA Executive Committee

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Michelle Beal
City Manager, Ellsworth

VICE PRESIDENT

Stephan Bunker
Selectperson, Farmington

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Town Manager, Boothbay

Linda Cohen
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Michael Crooker
Town Manager, Glenburn

Cynthia Mehnert
Chair Council, Orono

Marianne Moore
Mayor, Calais

Mary Sabins

Town Manager, Vassalboro

Laurie Smith

Town Manager, Kennebunkport

Patricia Sutherland

Chair Selectboard, Chapman

IMMEDIATE PAST PRESIDENT

Nicholas Mavodones, Jr.
City Councilor, Portland

LEGISLATIVE HEARINGS

Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. For the Legislative Events Calendar, see the Legislature's web site at <http://www.mainelegislature.org/legis/calendar/>. If you wish to look up schedules by Committee, go to <http://www.mainelegislature.org/legis/bills/phwkSched.html>.

Monday, February 9

Education & Cultural Affairs
Room 202, Cross State Office Building, 1:00 p.m.
Tel: 287-3125

LD 3 – An Act To Ensure Consistent Certification of Graduation Standards in Publicly Funded Secondary Schools.

LD 65 – An Act To Apply Equally a Curtailment or Other Loss in General Purpose Aid to Education.

Taxation
Room 127, State House, 10:00 a.m.
Tel: 287-1552

LD 29 – An Act To Establish a Local Option Real Estate Transfer Tax.

Tuesday, February 10

Judiciary
Room 438, State House, 1:00 p.m.
Tel: 287-1327

LD 58 – An Act To Require Transparency of the Ownership of All Companies Providing Funds To Build Infrastructure for Development Purposes.

Wednesday, February 11

Appropriations & Financial Affairs
Room 228, State House, 1:00 p.m.
Tel: 287-1316

LD 236 – An Act To Adjust Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of the Department of Health and Human Services and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2015.

Criminal Justice & Public Safety
Rm. 436, State House, 1:00 p.m.
Tel: 287-1122

LD 69 – An Act To Require Drug Testing of the Driver of a Motor Vehicle Involved in a Fatal Accident.

State & Local Government
Room 214, Cross State Office Building, 1:00 p.m.
Tel: 287-1330

LD 82 – An Act Concerning the Salary of Elected Sheriffs.

Taxation
Room 127, State House, 10:00 a.m.
Tel: 287-1552

LD 48 – An Act To Reduce Registration Fees and Excise Taxes for For-hire Vehicles with Adaptive Equipment Enabling Access by Persons with Disabilities.

LD 49 – An Act To Exempt from Excise Tax Certain Vehicles Used by Persons with a Disability.

LD 118 – An Act To Authorize Municipalities To Refund Amounts Collected in Excess of Tax Liens.

Thursday, February 12

Education & Cultural Affairs
Room 202, Cross State Office Building, 1:00 p.m.
Tel: 287-3125

LD 56 – An Act To Limit Increases in the State's Share of Funding for Kindergarten to Grade 12 Public Education.

LD 60 – An Act To Ensure Proper Funding for Teacher Retirement.

Environment & Natural Resources
Room 216, Cross State Office Building, 1:00 p.m.
Tel: 287-4149

LD 70 – An Act To Assist Towns in Eradicating Milfoil and Other Invasive Aquatic Plants and Nuisance Species.

Labor, Commerce, Research & Economic Development
Room 208, Cross State Office Building, 1:00 p.m.
Tel: 287-1331

LD 93 – An Act To Allow the Town of Berwick To Be Eligible for Full Pine Tree Development Zone Benefits.

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

LD 31 – An Act To Require Horse-drawn Carriages and Wagons To Be Equipped with Reflectors.

LD 37 – An Act Regarding Emergency Lights on a Vehicle Used by a Member of a Municipal or Volunteer Fire or Emergency Medical Services Department.

LD 73 – An Act To Increase Weight Allowances for Farm Trucks.

Variance Restrictions (cont'd)

handle the bulk of zoning-related work, but often times appeals are being brought directly to the select board or council because the statute has tied the hands of the Board of Appeals, inhibiting their ability to even consider granting a variance.

This was the situation pointed out by the sponsor of LD 46, longtime municipal official and now Representative Arthur Verow, as well as David Winslow, each of Brewer. In Mr. Winslow's case, an expanded part of the house he inherited from his late mother was found to be slightly encroaching on his neighbor's property. Even though his mother was likely acting innocently and in good faith when she created the addition decades ago, under the state law no variance could be granted because Mr. Winslow's mother was the prior owner. Ed Phillips, Vice Chair of the Monmouth Board of Appeals, testified that the prior owner goes all the way back to a colonial land grant in some cases.

Cases like this are the reason MMA's Legislative Policy Committee voted to give qualified support to LD 46, as there are often understandable "fairness" reasons why a variance ought to be granted even if the zoning issue relates to the prior owner's actions. Some loosening of the "prior owner" restriction seems merited in order to allow Boards of Appeal to consider more variance applications, thereby reducing the amount of appeals brought directly to select boards and councils.

LPC members felt strongly that some care should be taken to not allow variance standards to become too loose, however.

For this reason, MMA proposed three possible amendments to LD 46. One way to curtail the potential re-sale abuse described above would be to require that the action taken by the prior owner was not a substantive violation of the municipality's land use regulation at the time it was taken. Another way might be to impose a minimum time period, perhaps five years, before which a variance might be granted for an issue arising from a prior owner action. Some sort of arms-length transaction requirement might be warranted as well.

Opposition to LD 46 came from the Maine Audubon Society as well as the Maine Association of Planners. The planners are concerned about creating a loophole to the bedrock "caveat emptor" (buyer beware) principle and wondered whether a change in local law might be the better solution. The Audubon Society was particularly concerned with impacts for shoreland zoning variances at a time when much attention is being given to buttressing rather than easing water quality protections. A possible amendment to retain the prior owner restriction for the shoreland zone will therefore be discussed at the work session on LD 46, which has not yet been scheduled.

As an observation, nearly all of the members of the 127th Legislature's State and Local Government Committee have served in various capacities in local government, ranging from town managers and clerks to teachers and first responders. This extensive real world experience should be of great value as the Committee considers bills impacting municipalities in the coming months.