

Broadband Bills Go Online

The Jan. 30 Legislative Bulletin included an article describing the municipal interest in the topic of broadband internet access. On Thursday this week, the Energy, Utilities and Technology (EUT) Committee held hearings on the first three of at least a dozen broadband-related bills introduced this session. Comparisons were drawn to the Legislature's consideration of expanding access to electricity to rural Maine a century ago; broadband access, proponents argue, is just as important in modern society. The three bills heard, LDs 465, 826, and 912 offer to transfer currently collected fees to municipalities, increase the funding to the ConnectME Authority to expand rural access to high-speed internet, or enable municipalities to finance regional multi-municipal utility districts, respectively.

Rural Emphasis

The first bill heard, LD 826, *An Act To Promote Maine's Economic Development and Critical Communications for Rural Family Farms, Businesses and Residences by Strategic Public Investments in High-speed Internet*, was introduced by Rep. Robert Saucier (Presque Isle) to bolster the ConnectME Authority's ability to assist with broadband internet build-out into the 6% of Maine municipalities with no high-speed internet access. The Authority currently receives \$1 million annually to be used for connecting unserved areas, and LD 826 would increase that state allocation to \$5 million, with the aim of having the elevated funding leverage additional federal support.

The proponents of LD 826 view the annual \$1 million as far too little money to realistically support the goal of internet expansion in the near term. Strong support came from farmers in Aroostook and Washington Counties affiliated with the

New England Farmers Union, Aroostook County Farm Bureau, and Maine Organic Farmers Association. These farmers ranged from major potato producers who manage to do 75% of their business online despite their lagging internet, to a farm in Washington County that has been run by the same family since 1765. All of them are tired of waiting for empty promises of faster, more reliable internet to be fulfilled.

Other proponents echoed the need for prompt internet expansion, including Sanford's City Manager Steve Buck and East Machias Selectman and first-term legislator Will Tuell. The former recognized that expanding broadband access anywhere in the state will benefit the entire state economically, and the latter explained how the ConnectME funding helps rural

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Committee Dismisses Municipal Concerns with Tax Lien Bill

On Tuesday of this week, the Insurance and Financial Services (IFS) Committee convened a work session to review and finalize amendments on several bills, including LD 337, *An Act To Require Lienholders To Remove Liens Once Satisfied*. The bill was sponsored by Rep. Richard Campbell (Orrington).

As amended by the Committee, LD 337 would require all liens, including municipal tax liens, to be discharged within 60 days of being satisfied. The amended bill would also require a lien holder municipality, upon discharge of the lien, to formally notify in writing all parties who had received notice of the original lien filing. Failure to discharge in a timely fashion or formally notify all interested parties of the discharge would create a right of action for the taxpayer who paid off the property tax delinquencies to seek damages in court against the municipality and be provided attorney fees if successful.

During Tuesday's amendment review, Sen. Geoffrey Gratwick of Penobscot County asked the Committee to take into account concerns raised by the City of Bangor's tax collector, David Little. According to Mr. Little, the municipal

officials most knowledgeable about the tax lien process have three concerns with LD 337 as amended by the Committee.

First, although municipal tax collectors have no objections with the requirement to discharge tax liens within 60 days of satisfaction, they are concerned with the provision that creates an automatic right of action for the taxpayer who paid off the delinquent property taxes to sue the community without providing notice. Considering that municipal officials statewide handle thousands of tax liens each year, it seems reasonable that the municipalities be provided some notice and an opportunity to discharge the tax lien if the discharge is not accomplished in a timely manner, instead of being taken directly to court.

Second, considering that all other tax lien notice costs are accounted for through established lien fees, tax collectors are concerned that the cost of providing post-discharge notice will fall directly onto all the other property taxpayers. The filing of the discharge in the registry of deeds is the traditional way of providing public notice that the lien has been satisfied.

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Broadband Bills (cont'd)

Maine compete on the global stage. Rep. Tuell also noted the importance of broadband to the field of medicine, where “telemedicine” can keep his constituents from having to drive five hours to Bangor and back for check-ups and other vital healthcare services.

Opposition came from Time Warner Cable, whose concern relates to what they described as the bill’s five-fold increase in the taxes they charge their customers. The Maine Broadband Coalition testified “neither for nor against” LD 826 on the premise the bill does not strengthen the ConnectME Authority’s ability to staff internet expansion enough and that even more needs to be done, with even stronger support from the state rather than on a town-by-town basis. Fairpoint also testified “neither for nor against” the legislation.

Due to the timing of the printing of this legislation, MMA’s Legislative Policy Committee (LPC) has not yet had a chance to take a position on LD 826. The LPC will take up the bill at its next meeting this coming week. The same is true for the final bill described below, LD 912.

Short Term Resources

The EUT Committee next considered LD 465, *An Act To Eliminate the Broadband Sustainability Fee*, which was introduced by longtime Dover-Foxcroft selectman and first term legislator Norman Higgins. Currently, a “broadband sustainability fee” of \$2 or \$3 per mile of federally supported “dark” or dormant fiber that is purchased or leased by an

entity to “light-up” the dark fiber is assessed against the entity and dedicated to a broadband sustainability fund. Incumbent local exchange carriers are eligible to apply for grants from that fund provided the revenue is used to expand broadband into underserved areas. LD 465 terminates the assessments in the fall of 2015 and rededicates all resources remaining in the sustainability fund to support the efforts of municipal governments to expand broadband into unserved and underserved areas.

The LPC supported this legislation as a step in the right direction. From the municipal perspective, “last mile” infrastructure build-out has not seemed to be forthcoming in a way that is responsive to demands. While LD 465 provides some resources to assist with necessary investments, it has been difficult to assess whether this is the right or the best way to secure these resources. MMA appreciates that this bill would help provide support for broadband expansion efforts in the near-term, but encouraged the EUT Committee to also consider medium- to long-term solutions.

Sanford Manager Buck also supported LD 465, explaining how bringing his city online through a connection to the “Three Ring Binder” dark fiber will cost around \$1.5 million in order to underscore the point that more financial support for municipal efforts to expand services into underserved areas would be beneficial. Fairpoint opposed the legislation arguing the sustainability fund is not broken and does not need fixing.

Regional Broadband Utility Districts

The third and final bill heard by the EUT Committee, LD 912, *An Act To Allow the Establishment of Regional Municipal Utility Districts To Support Telecommunications, Broadband Communications and Energy Infrastructure*, introduced by first term legislator Robert Foley (Wells), amends the state’s interlocal agreement law to allow an agreement that establishes a regional multi-municipal utility district to provide broadband internet services. The bill would also allow such districts to leverage their existing telecommunications, energy generation, transmission or distribution services and to issue multi-municipal revenue bonds in support of these activities. The intent would be for

such a municipal utility district to be subject to the pertinent regulations of the Public Utilities Commission, though electricity providers Central Maine Power and Emera questioned whether the legislation as drafted would in fact require PUC oversight.

Wells Town Manager Jonathan Carter likened broadband utility districts to other utility districts, explaining how the legislation’s authorization would enable the expansion of existing districts across municipalities to allow municipal costs to be shared and lowered by economies of scale. Great Works Internet emphasized how allowing revenue bonding would increase the feasibility of municipal efforts, and Steve Buck detailed Sanford’s efforts to highlight the strong municipal interest in public-private partnerships. According to Buck, Sanford recognizes that the private sector will invest when they have a sufficient level of customers to support their business models, and enhanced broadband public-private capacity partnerships will bring existing providers to the table to, in turn, bring more growth to the region.

The Telecommunications Association of Maine (TAM) opposed LD 912, explaining that private providers either do not have the money to invest in rural broadband expansion, or such expansion does not work with their business models, or both. TAM seemed to view municipalities as direct competitors, claiming it is difficult to compete against a public sector which does not need to make a profit and that more informed and reasonable alternatives exist.

It should finally be noted that the bill advanced by MMA’s Policy Committee to assist with last-mile connections to municipalities, LD 68, *An Act To Authorize a General Fund Bond Issue To Attract Business by Investing in High-speed Broadband Infrastructure*, has been referred to the Appropriations and Financial Affairs Committee where it is expected to be heard at a later date in the context of all of this session’s bond legislation and, perhaps, the general position of the EUT Committee on this subject.

The EUT Committee will help Maine chart its broadband future in the weeks to come. Municipalities aim to be active and open-minded participants in this important dialogue.

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

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Should Nonprofits Pay for the Municipal Services Received?

Is the value of services provided by privately owned tax exempt organizations a fair match and an appropriate offset for the value of municipal services provided to those institutions by their host municipalities? On Monday this week, members of the Taxation Committee were asked to ponder that question as they convened to receive public feedback on the merits of LD 565, *An Act to Authorize Municipalities to Impose Service Charges on Tax-exempt Property Owned by Certain Nonprofit Organizations*.

As proposed by Rep. Lawrence Lockman of Amherst, the bill would allow municipalities to adopt by referendum an ordinance assessing a fee for the direct municipal services provided to privately owned tax exempt organizations, with some limitations. First, the fees would have to be calculated to reasonably reflect the municipal services the organizations received from the municipality. In addition, (1) no fees could be charged to churches or veterans' organizations, (2) the value of the organization (if it was taxable) would have to exceed \$1 million, and (3) the executives of the organization would have to be paid at least 4 times the county's median household income.

Although MMA provided "neither for nor against" testimony on behalf of its Legislative Policy Committee, municipal officials strongly support the concept of establishing a fee assessment authority as provided in LD 565. Town and city leaders have long believed that many tax exempt institutions have the financial wherewithal to recognize and show their appreciation for the municipal services they are provided, and they should do so. When the Legislature's retraction from its revenue sharing commitment (nearly a quarter of a billion dollars over the last four years) is taken into account, the authority provided in LD 565 becomes even more important as a matter of fairness to the state's property taxpayers, particularly where tax exempt property is concentrated.

One of the most important elements of LD 565 is that the authority to assess a service fee on tax exempt institutions must be adopted by the voters at referendum.

As a result, the tax exempt entities affected by the fee assessment proposal have every opportunity to dissuade passage of the ordinance by illustrating to the voters how the services they provide to the community warrant the tax exemption.

MMA's Policy Committee's "neither for nor against" position on the bill was driven by an interest in making the fee assessment authority more readily available statewide by eliminating the county-based salary related threshold. Municipal officials believe the salary threshold unnecessarily complicates and limits access to the fee assessment authority.

Several tax exempt organizations were on hand to provide testimony in opposition to LD 565, including the Maine Association of Nonprofits, Maine Association of Independent Schools, Maine Hospital Association, and a representative of Maine's private colleges. The arguments presented by the opponents were familiar. Tax exempt organizations provide many valuable and needed services. Tax exempt organizations do not have the resources necessary to pay for municipal services and the requirement to pay the fees would reduce the amount of services they would be able to provide. Tax exempt organizations, when possible, provide payments in lieu of taxes. Tax exempt organizations provide employment opportunities.

To their credit, some of the opponents sympathized with the ever increasing burden being placed on Maine's property taxpayers and urged the Committee and the Legislature to find other ways to reduce that burden. One suggestion was for the Legislature to properly fund the revenue sharing program. Another suggestion was to support the fire district initiative, LD 724, being considered by the members of the State and Local Government Committee. That bill, sponsored by Sen. Tom Saviello (Franklin Cty.), would allow municipalities to create by ordinance municipal fire districts that could apply service charges to all properties without exception, including those that are tax exempt, to finance the fire protection budget.

While it is true that tax exempt entities provide valuable services, and in

limited cases provide either payments or community-based services in lieu of taxes, the voters of the community still deserve an opportunity to determine whether those services, payments and programs are enough to offset the added property tax burden.

LD 565 is simply asking the Legislature to entrust the voters at the local level with the authority to decide whether the application of service fees are fair for their community.

Tax Lien Bill (cont'd)

Third, since the bill as amended is silent on the mechanism to be used by communities to provide the post-discharge notice, municipal tax collectors are left with questions. Is the notice to be provided through regular or certified mail? What is the community's responsibility if the notice is undeliverable? What are the damages the municipality is exposed to in litigation if the discharge is a day late or notice is not sent or received? Will municipalities be required to notify all interested parties, without consideration of changes in addresses, changes in mortgage holders or changes in ownership? Litigation as well as claims of damages are at stake, with the municipality potentially paying the plaintiff's attorney fees.

Despite the efforts of Sen. Gratwick to address the municipal issues, the Committee had already voted that LD 337 "ought to pass" by an 11-2 margin and further deliberation on the bill was not allowed. Some Committee members suggested addressing the municipal issues would be "rewarding municipal officials for not doing their jobs". Others said that the municipal concern about a special right of action to sue municipalities for damages and attorney fees was overstated because the courts would protect the towns from exaggerated claims.

The bill will soon be in front of the entire Legislature for debate. Please contact your legislators today and ask them to oppose this hastily crafted and municipally costly bill.

Bills To Limit and Even Prohibit Certain Negotiated Agreements in Construction Contracts

Over the last couple of weeks two bills have been presented to the Labor, Commerce, Research and Economic Development Committee that would limit or even prohibit certain provisions that are found with some regularity in construction contracts negotiated between municipalities or schools and the contractors that are engaged to build schools, roads, bridges and other major public works.

One bill would prohibit construction contracts from including any broad indemnification agreements where the “owner” (such as the municipality) seeks to consolidate the task of managing claims of injury or damage occurring at the site of the construction project with the contractor that controls the construction site workplace.

The other bill would restrict the scope of any retainage agreements, which allow the “owner” municipality to hold back a certain amount of the contract payments pending completion of the project and satisfaction of contractor performance.

MMA’s Legislative Policy Committee voted to oppose both proposed restrictions on the ability of owners and contractors to negotiate the terms of a construction project. These negotiated terms, some of which are advanced by the owner and some of which are advanced by the contractor, are moved into the contract to address their respective needs. The two terms that would be limited or prohibited by these two bills are negotiated into public works contracts by the municipal or school “owners” for the purpose of protecting the taxpayers who are paying for the public works project.

Prohibiting Broad Indemnification.

The first bill in the mix is LD 587, *An Act Regarding Contract Indemnification*, sponsored by Sen. Andre Cushing (Penobscot Cty.). LD 587 was given its public hearing on March 17. In addition to Senator Cushing, Senator Roger Katz (Kennebec Cty.) testified in support of the bill from the perspective of a trial attorney, as did representatives of the Cianbro corporation located in Pittsfield, CPM constructors in Freeport, the Harry Crooker construction company in

Topsham, and the Maine Motor Transport Association. The arguments in support of LD 587 were that: (1) contractors and subcontractors often do not have any choice but to accept contract terms to their disadvantage or lose out on the job; (2) indemnification agreements unfairly shift to the contractors expenses for damages incurred in part by actions of the owners; and (3) the smaller contractors caught up in the indemnification agreements often do not understand their terms and could be bankrupted by their enforcement.

MMA spoke in opposition to LD 587 as did Jotham Pierce of the Pierce Atwood law firm on behalf of the state’s paper mills. Peter Mills, the Executive Director of the Maine Turnpike Authority (MTA), testified “neither for nor against”

LD 587 on behalf of the MTA as well as the Maine Department of Transportation. His testimony could have as easily come from the opponents’ corner.

The opponents argued that indemnification and the related assignment of a duty-to-defend with the contractor is commonly used in major construction contracts in order to consolidate litigation responsibilities associated with injury or damage associated with the worksite with the entity most responsible for management of that workplace. That type of consolidated responsibility is particularly necessary to keep Workers’ Compensation claims within the Workers’ Compensation system rather than the courthouse. Finally, to the extent

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Transportation Committee Votes To Leave LRAP At 9%

Last week, the Transportation Committee heard LD 505, *An Act To Increase the Funding Level of the Local Road Assistance Program* (a description of the hearing was provided in the March 27th Legislative Bulletin). The bill was advanced as one of several of MMA’s Legislative Policy Committee 2015-2016 Policy Platform bills aimed at restoring funding for transportation infrastructure. This week, a majority of the Committee voted the bill “ought not to pass.”

The bill’s sponsor, Searsport Town Manager and Transportation Committee member Rep. James Gillway, explained how the previous Legislature’s 10% reduction from the time-honored state funding level of the Local Road Assistance Program damaged more than ten percent of municipal trust in the state partnership. Rep. Gillway also relayed how these dollars go further at the local level; when municipalities “fix something we fix it,” whereas the state often paves with an overlay band-aid.

The Committee’s House Chair, Rep. Andrew McLean (Gorham), who voted along with Rep. Gillway and Rep. Jared

Golden (Lewiston) “ought to pass” with an amendment to incrementally restore funding over the next four years, acknowledged that a more fruitful large-scale conversation regarding transportation funding is needed. In contrast, Rep. George Hogan (Old Orchard Beach), claimed LD 505 was looking for a problem that doesn’t exist and that the request for restoration seemed “a bit ridiculous” in light of the lack of state resources. Rep. Wayne Parry (Arundel) explained the difficulty of figuring out whether state or local roads are more deserving, but considered proposing an amendment that would repay municipalities to make up for the reduction when money became available. The MDOT balked because of the consequences for the state Highway Fund budget, and the amendment was not formally introduced for a vote.

A key municipal concern when the 126th Legislature passed its Highway Budget was that it was the mere beginning of the erosion of state support for local capital improvements to transportation infrastructure akin to the exponentially

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Construction (cont'd)

indemnification clauses are perceived as disadvantageous to the contractors because they cause increased insurance exposures, those financial impacts are ultimately reflected in or transferred to the bottom-line cost of the contract. Everything about construction contracts is subject to negotiation.

By its terms, LD 587 would prohibit any indemnification agreement that protects the owner from claims arising from the owner's own "willful misconduct" or negligence. Although the "willful misconduct" reference generates sympathy for the legislation, it's misleading in the bill because Maine's Law Court determined many years ago that liabilities associated with willful misconduct cannot be made subject to indemnification as a matter of public policy. Setting aside the "willful misconduct" red herring, broad indemnification is not uncommon. The state's own general form state contract, for example, includes the following as boilerplate:

"STATE HELD HARMLESS *The Provider agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "claims") resulting from or arising out of the performance of this Agreement by the Provider, its employees, agents, or subcontractors. Claims to which this indemnification applies include, but without limitation, the following: (i) claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") providing work, services, materials, equipment or supplies in connection with the performance of this Agreement; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out*

of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Agreement; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department's negligence or unlawful act, or (ii) action by the Provider taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Agreement."

Limiting Retainage. The other bill limiting the potential scope of construction contracts negotiated by municipalities or schools and their general contractors is LD 757, *An Act To Limit the Amount That May Be Retained on Construction Contracts*. Sponsored by Representative Denise Tepler (Topsham), LD 757 was given its public hearing on Thursday last week. A retainage clause allows the owner to hold back on final payment by an amount agreed to in the contract pending final acceptance of the completed project after verifying contractor performance. Projects requiring high-level adherence to detailed specifications, with costly consequences if the specifications are not adhered to, typically require higher levels of retainage. LD 757 limits all retainage provisions in construction contracts to be no more than 5% of the contract's value.

Judging by the written testimony submitted, a general contractor, a masonry contractor and a stone countertop contractor joined Rep. Tepler in support of LD 757. The three contractors argued that retainage over the 5% threshold is unfair to subcontractors who are made

to wait for payments as a ripple effect of the retained payments to the general contractor by the owner, unfair to smaller contractors who cannot afford to wait for payments, and particularly unfair to front-end subcontractors, such as foundation installers, who have to wait for retained payments the longest.

The record of written testimony shows that the Maine School Management Association as well as MMA provided the testimony in opposition to LD 757.

MMA testified that for certain contracts municipal and school officials have found that they need terms in the contract related to verifying performance and ensuring compliance with specifications in order to protect the interests of the taxpayers that are paying for the public works. For example, a major school construction project could involve the construction of a gymnasium, auditorium, athletic track or field, or other components involving detailed and function-critical specifications. For those contracts, local government officials have found that retaining more than 5% of the contract cost is necessary to protect the construction investment.

Both LD 587 (prohibiting indemnification) and LD 757 (limiting retainage) are in the possession of the Labor Committee and will come up for work session soon. Municipal officials concerned about the Legislature interfering with freely negotiated contracts in a way that reduces the municipal or school capacity to protect taxpayer interests should contact their legislators.

LRAP (cont'd)

increased reductions seen with the municipal revenue sharing program. An upside to the LD 505 work session is that committee members did not seem to favor further reductions and many, including some who voted against the bill, acknowledged their intent to restore funding to 10% when revenues return. Someday.

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, April 6

Health & Human Services

Room 209, Cross State Office Building, 9:30 a.m.

Tel: 287-1317

LD 715 – Resolve, Directing the Department of Health and Human Services To Hire Health Inspectors.

Labor, Commerce, Research & Economic Development

Room 208, Cross State Office Building, 9:30 a.m.

Tel: 287-1331

LD 698 – An Act To Establish a Presumption of Impairment in the Line of Duty for Corrections Officers under the Workers' Compensation Laws.

LD 921 – An Act To Strengthen the Right of a Victim of Sexual Assault or Domestic Violence To Take Necessary Leave from Employment.

LD 960 – An Act To Support Family Caregivers in the Workforce.

LD 1015 – An Act To Require Large Employers To Report Compensation Information.

State & Local Government

Room 214, Cross State Office Building, 1:00 p.m.

Tel: 287-1330

LD 909 – An Act To Help Older Adults Age in Place through Comprehensive Planning.

LD 915 – An Act To Facilitate Long-range Planning in Certain Municipalities.

LD 1012 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Increase the Length of Terms of Senators.

Veterans & Legal Affairs

Room 437, State House, 10:00 a.m.

Tel: 287-1310

LD 754 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Ensure That Laws Governing Hunting and Fishing Are Not Subject to the Citizen Petition Process.

LD 990 – An Act To Limit Agency Expenditures To Influence Elections.

Tuesday, April 7

Education & Cultural Affairs

Room 202, Cross State Office Building, 1:00 p.m.

Tel: 287-3125

LD 1048 – An Act To Allow School Administrative District No. 27 To Transfer Ownership of the St. Francis Elementary School to the Town of St. Francis.

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.

Tel: 287-1338

LD 296 – An Act To Increase Economic Development in Rural Communities by Expanding Hunting Opportunities.

Transportation

Room 126, State House, 1:00 p.m.

Tel: 287-4148

LD 32 – An Act To Amend the Laws Regarding Signs on Interstate Highways in Maine.

LD 901 – An Act To Ensure Sustainable Infrastructure Funding.

LD 902 – Resolve, To Establish the Commission To Study Parking for Persons with Physical Disabilities.

LD 903 – An Act To Allow in Certain Circumstances Two-wheeled Vehicles To Proceed through Red Lights and Make Right Turns on Red in Contravention of Posted Prohibitions.

Wednesday, April 8

Criminal Justice & Public Safety

Rm. 436, State House, 1:00 p.m.

Tel: 287-1122

LD 548 – An Act To Provide a Concealed Handgun Permit for Active Military Members.

LD 600 – An Act To Conform Maine Law Regarding Persons Prohibited from Possessing Firearms with Federal Law.

LD 823 – An Act To Upgrade the Concealed Handgun Permit Law.

LD 868 – An Act To Remove Limitations on Reciprocity for Concealed Handguns Permits.

Energy, Utilities & Technology

Room 211, Cross State Office Building, 2:30 p.m.

Tel: 287-4143

LD 1075 – An Act to Amend the Charter of the Canton Water District.

Environment & Natural Resources

Room 216, Cross State Office Building, 1:00 p.m.

Tel: 287-4149

LD 580 – An Act To Extend the Funding Period for Landfill Closure Costs.

State & Local Government

Room 214, Cross State Office Building, 1:00 p.m.

Tel: 287-1330

LD 785 – An Act To Provide for Legislative Review of Federally Mandated Major Substantive Rules under the Maine Administrative Procedure Act.

Thursday, April 9

Energy, Utilities & Technology

Room 211, Cross State Office Building, 1:00 p.m.

Tel: 287-4143

LD 103 – An Act To Recruit New Businesses to Maine by Providing Energy Efficiency Assistance.

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.

Tel: 287-1338

LD 703 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Protect the People's Right to Hunt, Fish and Harvest Wildlife.

LD 753 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish the Right To Hunt and Fish.

Judiciary

Room 438, State House, 1:00 p.m.

Tel: 287-1327

LD 161 – An Act To Ban the United Nations Agenda 21 in Maine.

IN THE HOPPER

(The bill summaries are written by MMA staff and are not necessarily the bill's 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.)

Appropriations & Financial Affairs

LD 1021 – An Act To Amend the Laws Pertaining to the Maine Public Employees Retirement System. (Sponsored by Rep. Rotundo of Lewiston.)

This bill appears to be one of at least two bills introduced this session responding to a 2014 Law Court decision that held that the Board of Trustees of the Maine State Retirement System did not have statutory authority to make final administrative decisions regarding claims of certain participating local district (PLD) employees who believed they were eligible for retroactive retirement benefits from Kennebec County because the County allegedly failed to inform them of their rights to be provided benefits through the PLD when they were first hired two decades ago. The Law Court decision opened up the statute in this area for further clarification, and this bill clarifies the matter by expressly giving to the Board of Trustees' jurisdiction in these PLD-related decisions. (See LD 995 for the alternative clarification.)

Education & Cultural Affairs

LD 1152 – An Act to Amend the Definition of “Property Fiscal Capacity” in the School Funding Law To Address Inequities Affecting Municipalities Experiencing Significant Reductions in Value. (Sponsored by Rep. Stanley of Medway; additional cosponsors.) Current law defines a municipality's fiscal capacity for the purpose of calculating the local share and state share of the cost of public kindergarten to grade 12 education as the average state valuation for the municipality over a 3-year period prior to the most recently certified state valuation. In order to avoid overstating the fiscal capacity of a municipality that has experienced a significant loss in value of 2% or more attributable to a single taxpayer, this bill resets the 3-year period to average state valuations for those municipalities going forward, beginning with the first year the municipality's certified state valuation reflects that significant loss in value.

Energy, Utilities & Technology

LD 1185 – An Act To Establish the Municipal Gigabit Broadband Network Access Fund. (Sponsored by Rep. Higgins of Dover-Foxcroft; additional cosponsors.)

This bill establishes the Municipal Gigabit Broadband Network Access Fund within the Department of Economic and Community Development and capitalizes the Fund with an appropriation of \$12.5 million for FY 2016. The bill establishes the parameters for both planning grants (up to \$20,000) and implementation grants (up to \$200,000) to be awarded to municipal or multi-municipal applicants to establish access to gigabit fiber-optic broadband or ultra high-speed broadband infrastructure in their regions.

Environment & Natural Resources

LD 1043 – An Act To Strengthen the Overboard Discharge Removal Grant Program. (Sponsored by Sen. Johnson of Lincoln Cty; additional cosponsors.)

Under current law an individual meeting certain income levels may apply for a grant for reimbursement of all or a portion of the cost of removing and replacing any overboard discharge. This bill allows the Department of Environmental Protection to approve application for reimbursement in advance of construction if certain conditions are met, and to dedicate proposed project expenses for reimbursement for

specified periods of time. The bill also appropriates \$200,000 for each year of the FY 2016-2017 biennium for the purpose of providing the reimbursements.

Judiciary

LD 1203 – An Act To Address the Detrimental Effects of Abandoned Property. (Sponsored by Sen. Libby of Androscoggin Cty; additional cosponsors.)

This bill authorizes municipalities through the adoption of an ordinance to require owners of record or any holder of a mortgage on the real estate of an abandoned property to assume maintenance responsibilities. The ordinance may also authorize the municipal officers or their designees to maintain the property at the responsible party's expense, provided that the responsible party is provided appropriate notice and an opportunity to comply with the order to maintain the property. Municipalities are further authorized to assess a fine of \$2,000 for each day the responsible party fails to remedy the property defects. Before a municipality can act under the adopted ordinance, either a court or the municipal officers must determine that the property is abandoned according to the evidence of abandonment standards described in Title 14, section 6326, which includes broken or boarded up doors and windows, accumulated rubbish, trash or debris, absence of furnishings and personal property, or property deterioration to the point of creating a threat to public health.

Labor, Commerce, Research & Economic Development

LD 1191 – An Act To Remove the Municipal Mandate To Enforce the Maine Uniform Building and Energy Code. (Sponsored by Sen. Thibodeau of Waldo Cty; additional cosponsors.)

Under current law, all municipalities with a population greater than 4,000 must enforce the Maine Uniform Building and Energy Code (MUBEC). The MUBEC code does not apply as a matter of state law in any municipality with a population of 4,000 or less unless the legislative body of such a municipality adopts the MUBEC code. This bill would eliminate the mandate that municipalities with populations greater than 4,000 enforce the MUBEC code, but similarly authorize those municipalities to enforce the MUBEC code if they wish by formally adopting it as that municipality's building and energy code.

State & Local Government

LD 957 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for the Popular Election of the Attorney General, Secretary of State and Treasurer of State. (Sponsored by Sen. Cushing of Penobscot Cty; additional cosponsors.)

This resolution sends out to the voters a proposed amendment to the state's Constitution that the three Constitutional officers (Secretary of State, Treasurer and Attorney General) be elected by the state's voters on a biennial basis, rather than elected by the Legislature.

LD 972 – An Act To Provide for the Nonpartisan Election of County Officials. (Sponsored by Rep. Dillingham of Oxford; additional cosponsors.)

This bill requires that a county commissioner, county treasurer, district attorney, sheriff and register of deeds must all be elected on a nonpartisan ballot and that a vacancy in any of those offices must be filled without regard to political affiliation.

Taxation

LD 1159 – An Act To Modify the Property Tax Abatement Laws. (Sponsored by Sen. Saviello of Franklin County.)

This amends the poverty abatement law to limit the eligibility of poverty abatements to the taxes associated with the applicant's home and the first two acres upon which the home is located.

(continued on back page)

HOPPER (cont.)

LD 1169 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Permit 25 Acres or Less To Be Withdrawn from Taxation as Timberland and Woodland without Penalty. (Sponsored by Sen. Davis of Piscataquis Cty; additional cosponsors.) This resolution sends out to the voters a proposed amendment to the state's Constitution that would allow a landowner to withdraw parcels of 25 acres or less from the Tree Growth tax program without the payment of a penalty.

Veterans & Legal Affairs

LD 990 – An Act To Limit Agency Expenditures To Influence Elections. (Sponsored by Rep. Chapman of Brooksville; additional cosponsors.)

This bill prohibits an agency of state or local government from making any expenditure or using its resources for influencing the outcome of an election or from making any donation or contribution, either in cash or in kind, to another person for the purpose of influencing an election. An agency in state or local government is defined in the bill as a department, agency, office, board, division, bureau, commission or council. The prohibition applies to the nomination or election of a person to public office as well as the direct initiative of legislation or people's veto referendum that has been submitted to the Secretary of State for statewide election. An exception to the general prohibition allows for the distribution of impartial factual summaries regarding the subject of initiative or referendum that contains a record of arguments made both for and against the issue and does not contain a conclusion or the opinion or the governmental agency.

LD 1111 – An Act to Provide Funding to Municipalities To Assist with the Maintenance of Veterans' Graves. (Sponsored by Rep. Evangelos of Friendship; additional cosponsors.)

This bill would create the Municipal Veterans' Graves Fund to be administered by the Bureau of Maine Veterans' Services. Disbursements would be provided from the Fund to municipalities for the purpose of maintaining veterans' graves on an as-needed basis as determined by the Bureau. The bill also appropriates \$1 million for FY 2016 to initially capitalize the Fund.

LD 1138 – An Act Regarding Municipal Reporting of Statewide Elections. (Sponsored by Sen. Cushing of Penobscot Cty; additional cosponsors.)

This bill applies municipal obligations and imposes financial penalties when a municipal election clerk fails to update the central voter registration system by entering vote participation history for a statewide election within 25 business days after a general or primary election. The municipal obligation is to publish in a newspaper having general circulation within the municipality notice of the failure of the clerk to update the system and identify the clerk, as well as in the annual town report. The financial penalty for failing to update the central voter registration system with voter participation history in a timely manner is a \$50 fine for each day that clerk fails to update the system. The bill provides that the municipality is not liable for the clerk's failure.