

Legislative Session Turns Into The Home Stretch

At this writing, there is probably no one in the state who can speak with confidence about how this legislative session is going to approach the runway for a landing. Touch down was scheduled to occur less than two weeks from today, but that is looking increasingly unlikely. Ever since early January, when Governor LePage introduced a comprehensive tax reform plan in the center of his state budget, all predictive systems have been off kilter. Although the dynamics of divided government are certainly at play, the conspicuous display of partisan discord is quietly camouflaging some unexpected bipartisan alliances. To suggest that the decision-making process is very fluid at this point is an understatement.

With the exception of the two-year state budget, which must be reported out by the Appropriations Committee within the next few days, and with the exception of the bond package the Legislature may (or may not) develop for voter approval in November, all the various legislative proposals that might impact local government have been assigned recommendations by the legislative committees to which they were assigned and are now in the process of being acted upon by the full Legislature.

As a result of the stalled state budget development process, legislative activity on bills pertinent to municipal government has been relatively light this week. This edition of the Legislative Bulletin is primarily focused on tying-up some loose ends with respect to legislation of municipal interest that has been straggling to some degree through the legislative process.

Next week's Legislative Bulletin is scheduled to provide a detailed analysis of the proposed state budget proposal (or proposals) as recommended by the Appropriations Committee and legislative

leadership.

Beyond next week, we will be communicating to our municipal membership through our "action alert" system, as may be necessary. A comprehensive wrap-up of the 2015 legislative session, including complete descriptions of all the municipi-

pally related legislation that is ultimately enacted, will be provided in the July 2015 issue of the *Maine Townsman*.

Many thanks to all municipal officials for keeping so up-to-date and staying involved with respect to legislative matters throughout this winter and spring.

Two MMA Bond Proposals Heard by Appropriations Committee

Public hearings were held by the Appropriations Committee this week regarding two bond proposals developed and advanced by MMA's 70-member Legislative Policy Committee.

Transportation. LD 628, *An Act To Authorize a General Fund Bond Issue To Invest in Transportation Infrastructure*, would send to Maine's voters for approval a comprehensive \$125 million bond issue to allow for solid investments in Maine's transportation infrastructure. The Association's Policy Committee gave careful consideration to the apportionment of those borrowed resources among the various transportation needs and ultimately concluded that \$81.25 million should be recommended for road and bridge improvements, \$25 million for rail improvements, \$10 million for public transit, \$6.25 million for public trails and \$2.5 million for marine port and harbor infrastructure.

At the public hearing, representatives from various organizations spoke in favor of LD 628 in addition to the municipal association, including the Maine Better Transportation Association, Greater Portland Transit District, Maine Transit Association, Western Maine Transportation Services, and Grow Smart Maine. Most of these organizations emphasized the various states of disrepair and need for

more investment in highway, bridge and rail infrastructure, which has been detailed extensively in news report. The Mayors' Coalition noted how Maine's own Department of Transportation has a projected shortfall of \$119 million this year just to meet its statutory goals for road and bridge service, and encouraged the Committee to put thought into establishing a long-term state investment capital plan.

A long-time member of MMA's Legislative Policy Committee, Lou Stack of Standish, testified as Chairman of the Route 113 Corridor Committee, which strongly advocates for restoration of state-owned rail lines. According to Stack's testimony, the rail investment would help existing businesses reach markets they cannot serve now, provide excursion opportunities, and relieve traffic congestion.

Broadband Expansion. LD 68, *An Act To Authorize a General Fund Bond Issue To Attract Business by Investing in High-speed Broadband Infrastructure*, would provide \$10 million to be administered by the ConnectME Authority for the purpose of deploying broadband capacity. Currently, the Authority has less than \$1 million to invest annually and that has clearly not been enough to get the job done as quickly as had been hoped when the Authority was created in statute a

(continued on page 2)

Bonds (cont'd)

decade ago.

In that decade, progress has limped along, with substantial state and federal investments resulting in the “3-Ring Binder” broadband highway that has not had enough off-ramps to bring reliable service to communities even within a stone’s throw of the binder corridor. Over the course of this legislative session, the Energy, Utilities and Technology Committee grappled with various pieces of legislation that would help expedite the expansion of reliable, high-speed internet to parts of Maine where these services have been widely acknowledged to be lagging. As detailed in last week’s Legislative Bulletin, that Committee’s actions this session serve to underscore the need for an infusion of resources to help with broadband expansion, but no resources seem to be forthcoming. Thus, the bond proposal.

The sponsor of LD 68, Rep. Jim Campbell of Newfield, explained the need for this bill due to Maine’s lagging economy with respect to the rest of the region. To Rep. Campbell, this lag is embodied by the inability of existing providers to update their “old school” business models. The bond investment was described as a “must” by Rep. Campbell, promising numerous economic advantages to both urban and rural communities.

Despite the fact that the LD 68 bond funds could be made available to private providers via implementation grants, the prospect of providing municipal planning grants caused the existing providers Time

Warner Cable, Fairpoint Communications, and the Telecommunications Association of Maine to testify against the bond proposal, either openly or by means of a resoundingly negative “neither for nor against” position. Maine is still at the bottom of the pack nationally in terms of service, yet these providers are still explicitly questioning whether 2015 is the right time for more investment.

Along with MMA, GrowSmart Maine and the Secretary of State’s Small Busi-

ness Advocate testified in support of LD 68, with the latter speaking on behalf of the newly-formed Maine Broadband Coalition. The Small Business Advocate called broadband investment the “rural electrification of this century.”

For now, however, the development of a bond package to advance to the voters takes a clear back-seat to the development of a state budget. First things first. More on the potential for investment financing in the weeks to come.

Excise Taxes and Truck Campers

A late-in-the-session bill that proposed to repeal the municipal authority to collect excise taxes on camping units that are carried in the beds of pickup trucks came within six votes of passage last week. The bill, LD 1308, *An Act to Eliminate the Requirement That Truck Campers Be Registered*, was proposed by Senator Paul Davis (Piscataquis Cty.) on the premise that registering these units does not make sense.

According to the Recreational Vehicle Industry Association (RVIA), a national trade association that represents the manufacturers of recreational vehicles and their component suppliers, separate registration of truck campers is important and should not be repealed for two reasons. First, the registration helps purchasers obtain financing through authorized RV dealerships, which base their loans in part on registration. The alternative to this method of financing is a more expensive personal loan. Second, the registration also makes it easier for law enforcement to identify and track stolen truck camper units. To RVIA, it seems the benefits of the annual registration outweigh the modest twelve dollar cost.

The Deputy Secretary of State for the Bureau of Motor Vehicles, Patty Morneault, testified neither-for-nor-against the bill, explaining that the provision requiring separate registration of “truck campers” was enacted to help towns collect their excise tax on these units and to enforce sales tax requirements on the “casual sales” of these camping units. Ms. Morneault also testified that there are currently only 94 registered truck campers, less than half the number registered just six years ago. Eliminating the requirement to register

the campers would cost the state approximately \$1,000 in lost revenue.

Rep. James Gillway, a member of the Transportation Committee and Town Manager of Searsport, shared with the Committee his perspective that the number of registrations have gone down because law enforcement has consistently failed to monitor for registration decals and otherwise enforce the registration requirement, allowing the owners of truck campers to ignore the registration obligation. Typically, the Legislature does not repeal a law for the reason that it has not been well enforced. Rep. Gillway persuaded a majority of the Transportation Committee members to recommend against the bill and to, instead, send a letter from the Committee to law enforcement associations encouraging them to better monitor for compliance with the existing registration requirement.

Rep. Gillway also made the point that the Legislature needed to stop chipping away at municipal revenue sources at so many levels. Given the recent deep cuts to municipal revenue sharing, the first-in-history cut to Local Road Assistance, and pushing teacher retirement costs onto the property taxpayers, any more incremental cuts to municipal resources, regardless of their size or relative value, would be inappropriate in his view.

Despite LD 1308 only being supported by a minority of the Transportation Committee, the Senate voted in support of eliminating the truck camper registration process. LD 1308 was defeated in the House, however, by a very narrow margin. The authority of municipalities to assess and administer an excise tax on truck campers has been preserved.

Legislative Bulletin

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

County Jail System Amendments Advance Out Of Committee

The May 15 edition of the Legislative Bulletin described the Criminal Justice and Public Safety Committee's majority report and minority report proposals to address the county jail management and funding quandary, as well as the reaction by the Appropriations Committee during a hearing on a related state budget proposal submitted by Governor LePage. After holding additional work sessions, the Criminal Justice Committee has now polished its two competing reports on LD 186, *An Act To Reverse Jail Consolidation*, and advanced them for consideration by the full House and Senate.

The current jail consolidation program is being administered on the financing and authority provided by emergency legislation enacted in January that will expire in just three weeks. Therefore, the resolution to the county jail problem needs to be enacted with the immediacy of emergency legislation, which requires at least two-thirds support in both the House and Senate. Several legislators close to the issue expect the vote on the majority report to fall short of the two-thirds needed in at least one of the two legislative chambers, due at least in part to the substantial projected property tax impacts in the counties that "send" their inmates to other counties for boarding. Other legislators are more optimistic that the majority amendment will receive the super-majority support necessary.

Waiting in the wings, the Appropriations Committee has prepared a default proposal that could be inserted into the state budget if necessary. The default proposal would extend the stop-gap emergency legislation enacted in January to allow time for a more comprehensive solution to be developed and finally enacted in the 2016 legislative session.

Minority Report

The minority report, supported by four Democrats on the Criminal Justice Committee, would retain the State Board of Corrections and the coordinated county jail and state prison system. The substance of the minority report would change the Board of Corrections membership and

quorum requirements, while also providing just under \$13 million annually in state funding. The membership change would replace the member representing the general public and the two members appointed by the Governor with five additional members: the Commissioners of Administrative and Financial Services, Corrections, Health and Human Services and Public Safety and the Colonel of the Maine State Police, or their respective designees. The Commissioner of Corrections would be chair of the Board and the general quorum requirement would be reduced to three members rather than two-thirds of full membership.

Majority Report

The May 15 Legislative Bulletin article described the Committee's majority report, supported by all the Republicans on the Committee as well as three Democrats from the House. In summary, the majority report would do the following:

1. Repeal the Board of Corrections.
2. Return responsibility for managing jails to the counties.
3. Provide funding at \$14.7 million per

year to the Community Corrections Fund with a new distribution formula.

4. Lift the seven-year old cap on property taxes for correctional services so the property tax levy for jails could be increased each year by the "LD 1" growth rate, not to exceed 3% per fiscal year.

5. Establish a maximum prisoner boarding rate in statute of \$108 per day.

The most recent amendment to the majority report provides that the maximum prisoner boarding rate will be \$25 per day unless the state fails to provide its required level of funding, in which case the boarding rate cap will revert to the maximum of \$108 per day. A self-fulfilling prophecy if there ever was one.

In the event neither amendment passes with a two-thirds majority, the status quo proposal likely to be recommended by the Appropriations Committee would continue state funding at roughly \$12.2 million for FY 2016 and continue to deem the Commissioner of the Department of Corrections, Joseph Fitzpatrick, to be the State Board of Corrections until a more comprehensive resolution of the quandary is enacted in 2016.

Constitutional Right to Hunt Morphs Into Carryover

LD 703 and LD 753, two nearly identical bills, were given their public hearing by the Inland Fisheries and Wildlife Committee towards the end of April and several work sessions followed. Both bills would send out to the voters a proposed amendment to the state's Constitution that would establish a personal right to hunt, fish and harvest wildlife for the citizens of Maine, subject only to laws enacted by the Legislature or rules promulgated by state agencies that promote wildlife conservation. Because there are some ordinances and regulations adopted at the municipal level that could be perceived as interfering with these new constitutional rights, MMA's Legislative Policy Committee voted to oppose the bills unless

language was included that protected local regulations such as firearm discharge and shellfish harvesting ordinances.

Update. For reasons that probably had little to do with the municipal concerns, the Committee finally voted last week "ought not to pass" on both bills. At the same time, another approach to the issue was working through the Legislature. A "joint order" (House Paper 976) was adopted by both the House and Senate that directs the Inland Fisheries and Wildlife Committee to report out to the House a bill concerning the protection of Maine's outdoor heritage. Immediately after taking final action on the proposed constitutional amendments, the Committee voted to "carryover" House Paper 976 to the 2016 legislative session.