

Solid Waste Fees: Final Version

LD 1578, *An Act to Update Maine's Solid Waste Management Laws*, has finally been reported out by the Natural Resources Committee with a unanimous "ought to pass as amended" vote. The most substantive element of the bill is the establishment of a small battery stewardship program that is designed to provide the convenient opportunity for all consumers of small batteries to return their used batteries at retail locations to be collected, transported and recycled through a program financed by the batteries' manufacturers.

As frequently reported in previous editions of the Legislative Bulletin, another part of the bill was initially designed to restructure the system of fees levied by statute on the disposal of various categories of solid waste, including \$2/ton fees placed in certain circumstances on the landfilling of municipal solid waste and the \$1/ton fees on the landfilling of ash and other residues produced by the state's three waste-to-energy incinerators. The fees on the disposal of various types of solid waste, including municipal solid waste and "special wastes," are used

to finance the solid waste management operations within the Department of Environmental Protection (DEP).

Several versions of the fee restructuring proposal have been floated over the last few weeks, but apparently none passed political muster. In the final version of the bill that will now go to the House and Senate for consideration, no changes to the existing fee structure will be included. Instead, the bill will expressly authorize (but not require) the DEP to advance a fee restructuring proposal through the rule making process. Specifically, the DEP is authorized to adopt rules imposing per ton fees on

any municipal solid waste disposed of or received for processing at a commercial, municipal, regional association or state-owned solid waste disposal facility, solid waste processing facility, incineration facility or solid waste landfill.

If the DEP takes up this new authority to adjust the fee schedule, the restructuring must be consistent with the solid waste management hierarchy established in law. Also, this authority given to the DEP is to adopt "major substantive" rules governing the fee structure, which means that before the rules are implemented and made enforceable, they will have to be finally approved by the Legislature.

Additional Shooting Range Bill Amendments Develop

The attempt to secure specialized land use privileges by Maine's gun clubs and shooting ranges took an additional amendment twist this week. As described in the previous Legislative Bulletin, the amended version of LD 1500, *An Act to Protect and Promote Access to Sport Shooting Ranges*, was endorsed by the Judiciary Committee last week to permit existing shooting ranges to perpetually exist where they are in terms of their ability to rebuild, reconstruct, maintain and expand even when they are legal but nonconforming uses in the land use zone in which they are located. In other words, zoning ordinance standards that would disallow the expansion of nonconforming uses would apply to all nonconforming uses that might possibly exist, but not shooting ranges.

This week, Sen. Chris Johnson (Lin-

coln Cty.) submitted his own amendment to eliminate the nonconformity issue. As drafted, the meat of the bill would not be altered, however the section of the majority amendment that limits municipal regulatory authority over range rebuilding and "improvements" would be changed to require the rebuilding and improvements to conform with the municipality's "generally applicable" codes and ordinances. The proponents reached out to MMA for input on their own version of an amendment to address rebuilding nonconformance. It is unclear at this time whether this amendment will be introduced. In addition to Sen. Johnson's minority report of 1, the vote of the Judiciary Committee in support of LD 1500 is 9-3. The bill has not yet been reported out of the Committee for the full Legislature's consideration.

Legislative Bulletin

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Deal Struck on Tax Conformity & GPA Funding

What had been an unusually and even eerily slow legislative pace was propelled into high gear on Wednesday this week when the Legislature addressed two controversial issues: a supplemental appropriation for state aid for K-12 education, and tax conformity. In a matter of a few hours, the members of the House and Senate voted overwhelmingly to enact both LD 1583 (tax conformity) and LD 1641, dealing with state aid for K-12 education. Released to the public no earlier than the same day of enactment, LD 1641 went from the printing press to state law without being referred to a legislative committee or going through the normal public hearing process.

State Aid for K-12 Education. LD 1641 appropriates an additional \$15 million in state subsidy for the 2016-2017 school year, supplementing the \$986 million previously appropriated last July. As a result of the supplemental appropriation, the “local mill rate expectation” that would have otherwise taken effect in FY 2017 is decreased from 8.44 to 8.30 mills. The mill rate expectation for the current fiscal year is 8.23 mills.

The spreadsheet showing how each school district is impacted by this \$15 million supplemental appropriation is not yet available. According to Department of Education officials, the revised FY 2017 education funding spreadsheet will be made available early next week. As soon as the funding information is released, information on how to access the spreadsheet will be posted on MMA’s website (memun.org).

LD 1641 also directs the Commissioner of the Department of Education to convene no later than May 1, 2016 a 15-member commission to reform public education funding and improve student performance. The members of the commission include: (1) the Governor or his designee; (2) a representative of DOE; (3) the majority and minority leaders from both the House of Representatives and the Senate; (4) a member of the State Board of Education; (5) a recipient of the Maine Teacher of the Year award; (6) a representative of the Maine Charter School Commission; (7) a teacher or administrator from one of

the state’s career and technical education centers; (8) a representative from the Maine School Management Association, the University of Maine System and the Maine Community College System; and (9) two members of the public, one of whom must have municipal management experience.

The commission is directed to address at least 14 education related funding and service delivery issues. Of most direct municipal interest, the commission is directed to:

(1) Evaluate the successes and shortcomings of the current school funding model.

(2) Identify the causes of increased per-pupil education expenditures.

(3) Examine the state’s spending for special education, including the impact on school administrative units.

(4) Identify trends and disparities across the state in student performance.

(5) Review the existing laws governing the process of school administrative unit consolidation and withdrawal.

(6) Identify state and federal mandates that increase local property taxpayer burden and propose options for addressing those increased costs.

(7) And, assist school boards and municipal leaders in identifying opportunities to leverage state or regional resources in efforts to reduce costs.

In two stages, the commission’s report and recommendations must be submitted

to the Governor and Legislature in January 2017 and January 2018.

Tax Conformity. LD 1583, *An Act To Provide for Tax Conformity and Funding Methods*, makes the changes in Maine income tax law necessary to conform with the federal income tax code. The version of LD 1583 adopted by the Legislature: (1) provides for a Maine capital investment credit, (2) integrates federal bonus depreciation deductions, and (3) allows an itemized deduction for tuition related expenses. Furthermore, LD 1583 extends the income tax benefits for tax year 2015 and 2016, resulting in approximately \$19 million in reduced income tax revenue for each year of the FY 2016-2017 biennium relative to current projections. As proposed, the lost income tax revenues are replaced in large part over the FY 2016-2017 biennium with:

- \$9.5 million transfer from the Tax Relief Fund for Maine Residents.

- \$13.5 million in unexpended state employee salary plans savings.

- Over \$6 million in debt service savings.

- \$1.5 million by repealing the recently enacted Fund for the Efficient Delivery of Local and Regional Services.

- \$1.5 million by repealing the recently enacted Fund for Efficient Delivery of Educational Services.

- And, nearly \$1.5 million by diverting casino revenue that would otherwise be used to fund K-12 education.

Road Revenue Update

Since the bill was introduced during the 2015 legislative session, the Transportation Committee has held numerous work sessions on LD 1110, *An Act to Modernize Road User Fees*, a “concept draft” bill designed to restructure how the state’s Highway Fund is capitalized to address chronic funding shortfalls. At the Committee’s final work session on Thursday this week, Committee members voted unanimously to replace the “concept draft” bill with a resolve entitled *To Establish a Commission to Study Transportation Funding Reform*. This resolve would authorize the Transportation Committee to meet

up to four times following the end of this legislative session to study how to redesign and adequately fund the state’s transportation infrastructure. The Committee’s report and recommendations would be submitted to the Legislature by November 2016. However, that result is contingent on the full Legislature supporting the idea of further studying the issue. In addition, legislative leadership will need to support paying the legislators’ per diem expenses and Committee staffing costs associated with directing the Transportation Committee to further study how to adequately capitalize the state’s Highway Fund.

Local Law Enforcement “Diversion” Programs

As previously reported in the Legislative Bulletin, a bill was introduced this session that would take steps to divert low-level drug users from the state’s county jails to treatment programs. MMA’s Legislative Policy Committee supported the effort. Submitted as a “concept draft”, LD 1488 received unanimous support from the Judiciary Committee at a work session on Thursday this week after being amended into a concrete legislative proposal. The title of the amended bill is *An Act to Support Substance Use Assistance Projects Provided by Municipalities and Counties*. Under its terms, LD 1488 appropriates \$2 million in FY 2017 and directs the Commissioner of the Department of Public Safety to issue grants to

eight community pilot projects, at least two of which are municipally-based and at least two of which are county-based, to establish local Substance Use Assistance Programs. Applications for the grant funding must include a statement of purpose governing the local program and describe the measurable goals the program will achieve. The applications must also include:

- The targeted population.
- The nature of services to be provided.
- A statement of the applicant’s “diversion policy.”
- A description of the local “unmet need” in the area of substance abuse services.
- A review of the related substance

abuse “sectors” in the locality (e.g., treatment providers, harm reduction services, etc.).

- And, the data that will be collected to assess the effectiveness of the program.

The overall goal of the grant program is to reduce substance abuse and related criminality as well as the recidivism of convicted substance abusers subject to incarceration.

The unanimous Committee report supporting the bill bodes well for its adoption by the House and Senate. The next and potentially more difficult question to answer is whether the \$2 million fiscal note will ultimately be covered by the Legislature or, in the alternative, the bill will die on the Appropriations Table.

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>.

Wednesday, March 16

(Pending approval of legislative officers)

**Energy, Utilities & Technology
Room 211, Cross State Office Building,
1:00 p.m.
Tel: 287-4143**

LD 1649 – An Act To Modernize Maine’s Solar Power Policy and Encourage Economic Development.