

Impact Analysis: Week 2

Last week's edition of the Legislative Bulletin was an attempt to provide information to municipal officials to help evaluate the real-life local impacts of Governor LePage's state budget proposals that eliminate municipal revenue sharing, exempt large chunks of property from taxation, take some motor vehicle excise tax revenues for state purposes, cut General Assistance reimbursements for the cities with significant GA programs, begin pushing state-paid teacher retirement costs onto the property taxpayers and eliminate both the Homestead property tax exemption and the "Circuitbreaker" property tax and rent relief program for all recipients under the age of 65.

This package of proposals being advanced by the Governor would appropriate for state spending more than \$420 million of resources dedicated by current law to support local government operations or provide property tax relief for Maine's residents.

Municipal Impact Analyses. Municipal managers, assessors, excise tax collectors, finance officers, selectmen and others have been doing a great job developing an accurate impact analysis for their communities and assisting other communities in the effort. Rick Michaud, Saco's City Manager, assembled on a single spreadsheet the data submitted to him from nearly 70 towns and cities across the state, and samples of those impacts will be shared in this and future editions of the Legislative Bulletin under the banner "Real Impacts on Real People".

As presented in the Legislative Bulletin, these municipality-specific impact analyses show how the initiatives in the Governor's budget will impact both the municipality directly and the town's or city's residential property taxpayers directly. Last week's Bulletin profiled

the impacts in communities as diverse as Lewiston and St. Agatha. Switching to Franklin County, Farmington's impacts are profiled this week. In order to distinguish between the direct impacts on municipal sources of revenue and the direct impacts to the property taxpayers, the data are presented in three ways.

Impacts on Municipal Revenues. The first section of each impact analysis shows the direct impacts associated with limiting, shifting and suspending municipal revenues and reimbursements. The analysis takes into account the suspension of the revenue sharing

program, the conversion of the BETR program to BETE, the motor vehicle excise tax revenue shift, and the limit on state reimbursement under the General Assistance program to 50% of the total benefit issued. The likely financial impacts of flat funding state subsidy for K-12 education and pushing new Teacher Retirement costs onto the property taxpayers are not recorded because of the analytical complexity. It is important to note that the revenue sharing impacts are based on a complete suspension of the program; that is, the loss of the revenue associated with failing to honor the

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Working Group Report: Municipal Road Mandates

Over the summer and fall of 2012, several working groups, task forces and stakeholder groups met to research, discuss and develop policy recommendations to address issues and concerns the Legislature had identified as warranting additional study. The deadlines for the reports of these working groups are falling due and several reports are now available for review.

In the next few editions of the Legislative Bulletin, we will provide brief updates on the studies and reports of municipal interest. It is important to note that at this stage, the policy changes suggested in the reports are merely recommendations. Not until the Legislature decides to act on the reports by advancing legislation through the normal process (e.g., having a bill printed, conducting a public hearing and work session on the bill, and finally enacting legislation) do these recommendations have the force of law.

What follows is a synopsis of the recommendations from the stakeholder group directed to study a variety of issues related to abandoned and discontinued roads.

As provided in Title 23, section 3026, a municipality may discontinue maintenance of a town way, subject to the approval of the municipal officers and the local legislative body (i.e., council or town meeting). Although the authority to discontinue a town way is laid out in two short paragraphs in Maine law, the process, by necessity, must be followed precisely or the order to discontinue a town way can be voided.

Since September 3, 1965, all discontinued roads retain a public easement, unless expressly extinguished in the discontinuance order. Prior to September 3, 1965, the public easement was extinguished unless expressly retained through the order. The change in policy regarding the retention of the easement was the result

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Impact Analysis (cont'd)

statutory requirement to distribute 5% of state sales and income tax revenues to municipalities.

Tough Choices. The second section of the report shows the ways in which municipal leaders and residents may decide to absorb the revenue reductions proposed in the budget, as well as the impacts associated with those decisions. As presented, it is assumed that the town meeting or council will either: 1) eliminate services or cut the levels of services currently provided by the value of the revenue reductions; or 2) increase the property tax rate to replace the cut revenues; or 3) both reduce services to some degree and increase property tax rates to some degree.

Direct Impacts on Residents. Finally, the third section of the report shows the impacts of a redesigned “seniors only” Homestead Exemption program by showing the number of households in each community estimated to lose the Homestead exemption, and the value of the benefit loss. For this analysis, it

is assumed that two-thirds of existing homestead recipients will be ineligible to receive the property tax break in the future.

Circuitbreaker impacts. One gap in the impact analysis template we are trying to create concerns the proposed deep cuts to the Maine Residents Property Tax program, more commonly referred to as the “Circuitbreaker Program”. In the last program cycle, \$43 million in Circuitbreaker benefits were distributed to approximately 90,000 Maine households throughout the state, providing an average cash benefit of \$480 for each lower income household for property tax relief purposes. 58,000 beneficiaries were homeowners and 32,000 were renters. The Governor’s proposal to eliminate the program for people under 65 years of age and significantly limit the current eligibility standards for all applicants over 65 years of age is estimated to “save” the state \$35 million in the first year of biennium, which means the overall program is being cut by over 80%. Much of that reduction is because of the elimination of all households under 65 years of age. Some of that re-

duction is because of the new eligibility restrictions proposed for the “elderly” households that would remain eligible for some benefits.

As reported last week, we have been trying to obtain from Maine Revenue Services the number of Circuitbreaker recipients on a town-by-city basis. We are now told that the information we are requesting will become available next week.

MMA’s standing request to members. All municipalities are urged to forward their impact analysis to us here at MMA so that we can add to the jump-start Rick Michaud gave us and assemble the “grand list”.

10 Hardest Hit Homestead Exemption Value of Benefit

BANCROFT	\$ 262
GRAND ISLE	260
FRENCHBORO	258
MILLINOCKET	256
MERRILL	250
MEDWAY	250
VANCEBORO	250
PRESQUE ISLE	235
EAST MILLINOCKET	233
SPRINGFIELD	233

The data in the list above show the communities where property taxpayers will be hardest hit by the Governor’s proposal to limit the Homestead Exemption. While the average value of the property tax benefit in these 10 hardest hit communities is \$249, the average statewide value of the Homestead Exemption benefit is \$133 per year.

The information necessary to calculate these impacts was found in the Maine Revenue Services’ 2011 Municipal Valuation Return Statistical Summary.

FY 14 - FY 15 Proposed Budgets - Real Impacts on Real People Farmington

Direct Impacts on Municipal Revenues:

Revenue Sharing Suspension	\$ 817,762
BETR/BETE Conversion	-
Motor Vehicle Excise Tax Shift	9,704
General Assistance Reimbursement Reduction	-

Total Revenue Loss **\$ 827,466**

Direct Impacts on Property Taxpayers - Choices

Reduce services, only.	\$ 827,466
Increase tax rate, only.	2.04 Mills
Combination: reduced services and increased tax rate.	?

Homestead Exemption Redesign Impacts

Current Number of Residents Receiving Benefit	1,509
Residents Eligible Under Proposed Budget	502
Number of Residents Affected	1,007
Annual Value of Benefit	\$ 150

“I was just talking with the Director of Parks and Recreation and pondered, hypothetically, who would purchase the Town’s community Center and ballpark if we eliminated his Department.”

~ Richard Davis, Farmington Town Manager

**10 Hardest Hit
Commercial Excise Tax
Loss of Municipal Revenue**

HERMON	\$ 547,466
SOUTH PORTLAND	429,190
SCARBOROUGH	186,604
AUBURN	146,800
HAMPDEN	143,839
SEARSMONT	132,229
CHESTER	115,389
AUGUSTA	111,808
LEWISTON	91,448
BANGOR	81,097

The data in the list above show the communities hardest hit by the Governor’s proposal requiring municipalities to remit the excise tax revenue assessed on tractor trailers (i.e., trucks that haul trailers) to the State. Of the \$4.9 million in commercial vehicle excise tax collected by organized communities, the collective loss in these ten communities accounts for 40% (\$1.9 million) of the total.

The information necessary to calculate these impacts was provided by the staff from the Vehicle Service Division in the Bureau of Motor Vehicles.

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of pressure from the courts to address situations where properties, not otherwise accessed by the discontinued road, would become landlocked, leaving the owner no access to the property. The change in the law automatically retains the easement thereby protecting access to potentially landlocked properties.

While the process appears to be relatively black and white, the impacts on the public and the property owners that abut these roads are not so clean cut. In some cases where an easement is retained, abutters feel disadvantaged as anyone can use the road but no one is responsible for its maintenance. In cases where the easement is extinguished, affected parties sometime decry the loss of access to scenic areas, water bodies and access to logging operations.

As a result, the State and Local Government Committee directed the Department of Agriculture, Conservation and Forestry to convene a 10-member stakeholder group to examine issues relating to discontinued roads, including access through public easements, damage caused by users, and the maintenance of the public easement.

After holding four meetings in November and December, the stakeholder group, which included representation from state agencies, municipal government, woodlot owners, outdoor recreationalists and property owners along abandoned or discontinued roads, made the following recommendations:

1. Require municipalities to conduct inventories listing the roads to be maintained with public funds. Municipalities would have two years to complete the inventory, after which abutters would have two years to file a claim with the municipality. All roads excluded from the list would be deemed discontinued without a public easement.

2. Revert back to the pre-September 3, 1965 process whereby a public easement can only be retained by an express vote of the municipality’s governing body.

3. Require municipalities to assume liability and maintenance responsibility over roads where easements are retained. The level of responsibility would be related to the determined use of the road

(i.e., summer only, snowmobile trail, etc). Failure to fund and maintain the easement over a two year period would automatically extinguish the public’s right.

4. In cases where the road is discontinued without easement, all landlocked abutters would be provided an easement to access property.

Unfortunately, the four recommendations of the stakeholder group hold only the municipality and property taxpayers responsible for implementing the solutions and funding them. The report does not focus on recommendations for holding property owners accountable for understanding the limitations that may be placed on the roads abutting their properties. Nor do the recommendations offer solutions that hold the people most directly benefiting from the easement responsible for its proper use.

Instead, the report concludes by admonishing municipal government: *“Municipalities should not be allowed to rely on flawed statutes to rid themselves of public responsibilities and costs or to unfairly shift the financial burden to individuals while still retaining public access rights. This Stakeholder Group strongly believes that it is in the overall best interest to maintain, enhance, or provide adequate access to public or private land and resources, provide for future trail and/or access need, and to protect or establish corridors to ensure continued access while respecting the need of the user and abutting land owners.”*

While municipal officials understand the frustrations associated with discontinued roads, it is inappropriate to solve the problem by imposing costly make-the-municipality-fix-it mandates. Other interested parties should share the burdens associated with implementing the solutions. Simply shifting additional burdens onto the property taxpayers will only serve to make this issue more divisive and contentious.

A copy of the stakeholder group’s report is posted on MMA’s website at: www.memun.org, clicking on “Legislative/Advocacy on the left, and filed under “What’s New”.

Coming Soon - A Public Hearing of Municipal Interest

In the fall of each even-numbered year, the Association's 70-member Legislative Policy Committee sets its legislative agenda for the upcoming two year period. The planks on MMA's platform represent state level policies that municipal officials across the state believe warrant amendment or enactment. Thus far, three bills of MMA's 2013-2014 legislative agenda have been printed and may soon be scheduled for public hearings.

To ensure that municipal officials have an opportunity to participate in the public hearing process, either directly by attending the proceeding or indirectly by submitting written testimony, MMA staff will be generating an "interested parties" list for each of the Association's bills. As soon as we have information regarding the public hearing date, time and location we will email or fax those details to all interested parties. Our hope is that as many interested municipal officials as possible have the timely notice necessary to participate in these important public hearings.

Folks interested in being notified about the public hearings on the bills listed below are asked to contact Laura Veilleux at lveilleux@memun.org or 1-800-452-

8786. After each description of the bill, a link to the actual language is provided. If you have any questions about these bills, please feel free to contact Laura.

LD 16 – \$100 Million Transportation Bond. This bill sends out to the voters a proposed \$100 million bond issue for transportation purposes with \$65 million dedicated to state and municipal roads, highways and bridges, \$20 million dedicated to railroad infrastructure, \$10 million dedicated to public transit, and \$5 million dedicated to pedestrian trails.

<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0020&item=1&snum=126>

LD67-Road "Turnbacks". This bill amends the existing urban compact road transfer process by requiring the Department of Transportation to work collaboratively with the affected municipality to ensure that a section of state or state aid highway transferred to the municipality for maintenance responsibilities is in good condition. In addition to outlining the information and documents that must be provided to the affected municipality, the bill provides a more detailed definition of the "good condition" standard and creates a dispute resolution process to address contested issues.

<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0070&item=1&snum=126>

LD 104 - Right to Know. This bill amends the laws that apply to public records in three ways. First, it adds an exception to the definition of public records under the Freedom of Access Act (FOAA) for email addresses obtained by a political subdivision of the state for the sole purpose of disseminating non-interactive notifications to individuals. Second, the bill eliminates the cap on the hourly rate that a governmental entity may charge to cover the actual cost of searching for, retrieving and compiling a requested public record, and establishes a definition of "actual cost" that is tied to the hourly rate paid to employees to fulfill a request. Third, the bill creates an exception in the FOAA for documents submitted to a municipal board of appeals that describe or verify the mental or physical disabilities of a person who is seeking a variance from certain land use regulations in order to accommodate the disability.

<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0086&item=1&snum=126>

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.)

Criminal Justice & Public Safety

LD 40 – An Act To Protect a Private Memorial Placed in a Public Right-of-way. (Sponsored by Rep. Chase of Wells; additional cosponsors.)

With limited exceptions, this bill prohibits the destruction, defacing or removal of any monument, marker or other structure, in whole or in part, that has been placed in the public right of way as a memorial to mark the site of the death of a person.

LD 60 – An Act To Reduce the Number of Public Safety Answering Points. (Sponsored by Rep. Sirocki of Scarborough; additional cosponsors.)

Current law requires the Emergency Services Bureau within the Public Utilities Commission to establish a total of between 16 and 24 Public Safety Answering Points (PSAPs). This bill requires the Bureau to reduce the number of PSAPs to 2.

LD 76 – An Act To Provide Funding to the State Board of Corrections for Certain County Jail Debt. (Sponsored by Rep. Dion of Portland; additional cosponsor.)

This bill appropriates approximately \$4.6 million for each year of the upcoming biennium for the State Board of Corrections Investment Fund, which represents the difference between the FY 2008 county jail debt costs and the amount of county jail debt costs projected for FY 14 and FY 15, respectively. This formula to capitalize a capital improvement program for the county jails was built into the "county jail consolidation" law enacted in 2008, but it has never been properly capitalized by the Legislature.

In the hopper (cont.)

Education & Cultural Affairs

LD 6 – An Act To Prohibit a Requirement That a Superintendent Reside in the School Administrative Unit. (Emergency) (Sponsored by Rep. Casavant of Biddeford; additional cosponsors.)

This emergency bill prohibits a school board from requiring a school superintendent to reside in a municipality within the school administrative unit, overriding any municipal ordinance or charter to the contrary.

LD 56 – An Act To Ensure Equity in School Costs Borne by Municipalities within Consolidated School Units. (Sponsored by Rep. Beavers of South Berwick; additional cosponsors.)

This “concept draft” bill proposes to amend the K-12 school funding distribution system established under current law, utilizing the Essential Programs and Services school funding model, to ensure parity and taxpayer equity among towns that are members of consolidated school units.

LD 61 – An Act To Amend Standards for Participation in Certain Public School Services by Students Who Are Homeschooled. (Sponsored by Rep. Espling of New Gloucester; additional cosponsors.)

This bill, identified as a state mandate, allows a student who is being home schooled to be eligible for a tuition subsidy as a “subsidizable pupil” for post secondary courses if the post secondary institution has space available for the student, all the prerequisite courses have been completed by the student, and the student is determined to be academically qualified for the course. The bill also establishes that home schooled students are eligible for special education services provided by the school administrative unit they would otherwise attend in the same manner that students in private schools may be eligible for those services.

LD 93 – An Act To Require Public Secondary Schools To Offer a Course in Gun Safety and Handling. (Sponsored by Rep. Davis of Sangerville; additional cosponsors.)

This bill requires public secondary schools to offer a firearm safety and handling course that is optional for students.

Inland Fisheries & Wildlife

LD 100 – An Act To Allow Municipalities To Stock Ponds. (Sponsored by Rep. Wood of Sabattus; additional cosponsors.)

This bill authorizes municipalities to stock ponds with fish provided 5 standards are met: (1) the pond must be located entirely within the municipality; (2) the municipality must purchase the fish from a hatchery operated or approved by the Department of Inland Fisheries and Wildlife; (3) the municipality must pay all costs incurred by the Department for activities related to stocking the pond; (4) the municipality must provide to the general public year-round watercraft access to the pond; and (5) the municipality may not impose municipally-based regulations regarding the fishing activities.

Judiciary

LD 19 – An Act To Facilitate Access to Information by Legislators. (Sponsored by Sen. Craven of Androscoggin Cty; additional cosponsors.)

This bill requires a municipality or other governmental entity acting as the custodian of a public record to waive all fees associated with providing requested public records if the requester is a member of the Legislature who serves on the legislative committee having subject matter jurisdiction over the agency or official.

LD 58 – Resolution, Proposing an Amendment to the Constitution of Maine To Restrict the Use of Eminent Domain. (Sponsored by Sen. Thomas of Somerset Cty; additional cosponsors.)

This resolution sends out to the voters a proposed constitutional amendment adding language to the existing clause regarding

governmental eminent domain authority. The amendment provides that after five years after the taking, if the property hasn’t been used for the purposes of the taking, it cannot be used for another purpose or transferred to a person, non governmental entity, public-private partnership, corporation or other business entity without first providing the original owner or the heirs of the original owner a first option to re-acquire the taken property.

LD 104 – An Act To Amend the Laws Governing Public Records. (Sponsored by Rep. Nelson of Falmouth; additional cosponsors.) (See article on page 4 for description)

State & Local Government

LD 82 – An Act To Establish a People’s Veto Process for Actions of County Commissioners. (Sponsored by Sen. Thomas of Somerset Cty; additional cosponsors.)

This bill establishes a people’s veto process for actions of the county commissioners. To initiate the process, the person seeking the people’s veto has 5 days from the action of the county commissioners to file a notice of intent to gather the necessary signatures to force a referendum vote on the people’s veto. Within 30 days of filing the notice, a petition must be filed containing valid signatures of at least 5% of the number of registered voters within the county who voted at the last gubernatorial election. Upon certification of the petition, the referendum vote must be scheduled and conducted unless the commissioners vote to rescind the action that is subject to the people’s veto.

Taxation

LD 73 – An Act To Exempt Persons 65 Years of Age or Older Whose Income Is below the Poverty Line from Paying Property Taxes on Their Homes. (Sponsored by Rep. Beaudoin of Biddeford; additional cosponsors.)

This bill provides an exemption from property taxes for the homestead of a person who is 65 years of age or older whose income is below a poverty level established by the Bureau of the Census.

Legislative Hearings

Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly “Advance Notice of Public Hearing” (ANPH) schedules and supplements are no longer available at the Senate Office at the State House and the Legislature’s web site. Work Session and Hearing schedules by Committee are available at the Legislative Information page at http://www.mainelegislature.org/legis/bills/phwksched_ps.asp?PID=1456.

Monday, January 28

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

Governor’s Supplemental Budget (Part T) – General Assistance – Reimbursement to Municipalities (held in conjunction with the Joint Standing Committee on Health & Human Services)

Wednesday, January 30

Veterans & Legal Affairs
Room 437, State House, 1:00 p.m.
Tel: 287-1310

LD 15 - An Act To Amend the Authorized Hours during Which Liquor May Be Sold and Purchased. (Sponsored by Rep. Gilbert of Jay)

In the hopper (cont.)

LD 107 – Resolution, Proposing an Amendment to the Constitution of Maine To Permit the Legislature To Provide a One-year Period of Penalty Relief for Withdrawal of Forest Land from Current Use Valuation. (Sponsored by Rep. Davis of Sangerville; additional cosponsors.)

This resolution would send to the voters a proposed amendment to the state’s Constitution regarding the current use taxation of forest land, which is Maine’s “Tree Growth” program. The amendment would allow the Legislature to establish an exception to the existing requirements to financially penalize the withdrawal of land from the program. Specifically, the Legislature would be authorized to create no more often than once every five years a one calendar year period during which land can be withdrawn without financial penalty provided the forest land has been enrolled in the Tree Growth program for at least 5 years and at least 50% of the enrolled forested land is being withdrawn.

Transportation

LD 11 – An Act To Allow Vehicles Engaged in Snow Removal or Sanding Operations on Public Ways To Use Preemptive Traffic Light Devices. (Emergency) (Sponsored by Rep. Volk of Scarborough; additional cosponsors.)

This emergency bill allows a vehicle owned or contracted by a municipal, county or state agency that is engaged in snow removal or sanding operations on a public way to use a preemptive traffic light device.

LD 16 – An Act To Authorize a General Fund Bond Issue To Invest in Transportation Infrastructure. (Sponsored by Rep. Peoples of Westbrook; additional cosponsors.)

(See article on page 4 for description)

LD 66 – An Act To Require That Motorcyclists Wear Helmets. (Sponsored by Rep. Beaudoin of Biddeford.)

This bill requires all operators and passengers of motorcycles on public ways to wear protective helmets, not just the motorcycle operators under the age of 18 as provided in current law.

LD 67 – An Act To Strengthen Collaboration in the Transfer of Responsibilities for State and State Aid Highways. (Sponsored by Rep. Boland of Sanford; additional cosponsors.)

(See article on page 4 for description)

LD 68 – An Act To Prohibit the Use of a Handheld Mobile Telephone while Operating a Motor Vehicle. (Sponsored by Rep. Beaudoin of Biddeford; additional cosponsors.)

This bill prohibits the use of a handheld mobile telephone while operating a motor vehicle, with exemptions for law enforcement officers, corrections officers, firefighters, emergency vehicle operators, and Maine Turnpike Authority and Department of Transportation personnel, provided the exempted operators are driving within the scope of their employment.

LD 109 – An Act To Exempt All Vehicles Delivering Home Heating Fuel, Including Wood Pellets, from Weight Limits. (Sponsored by Rep. Davis of Sangerville; additional cosponsors.)

This bill expands the current law that allows vehicles delivering home heating fuel to travel over a posted road without a municipal permit to provide the same allowance for other types of vehicles providing heating fuels, including without limitation propane, firewood or wood pellets.