

## Public Hearing on Revenue Sharing Cuts Scheduled for Tuesday

On Tuesday, March 1, at 1:00 p.m., the Appropriations Committee and Taxation Committee are scheduled to jointly hold a public hearing on Governor LePage's proposal to discontinue the municipal revenue sharing program as an actual sharing program and replace it as a year-to-year appropriation.

Specifically, the Governor's proposed budget would repeal the municipal revenue sharing program as it currently exists and as it has existed for many decades. Instead of sharing 5% of state sales and income tax revenues with the municipalities for property tax relief according to a rational distribution formula, the program would become subject to an annual appropriation. If the Governor's proposal is adopted by the Legislature, the amount of funding to be made available for property tax relief, and the strings attached to that distribution, would be subject to an annual decision made by the Governor and the Legislature.

For the next two years, the Governor is proposing an annual "revenue sharing" distribution of \$94 million, a large cut in revenue sharing compared to what would be provided under current law. For the upcoming fiscal year, \$94 million is over \$42 million short of what would be provided for property tax relief under current law. That shortfall is a full \$50 million short of the distribution projected for FY 2013. Over the biennium, the revenue sharing cut relative to current law is nearly \$100 million.

On Monday next week (February 28<sup>th</sup>), the two committees are scheduled to review a variety of income tax cutting proposals in the Governor's budget, including: (1) reducing the penalties for

failing to file an income tax return; (2) allowing mortgage insurance premiums as an itemized deduction from gross income; (3) eliminating the alternative minimum tax; and (4) lowering the top marginal income tax rate from 8.5% to 7.95% at the tail end of the biennium, pushing the full fiscal impact into the next biennium. We should have more details on these proposed income tax changes after Monday's public hearing, but the projected impact on the

state budget associated with enacting this package of income tax changes is \$203 million over the upcoming two-year period.

The public hearing on the proposed revenue sharing cuts is scheduled to begin at 1:00 p.m. on Tuesday, March 1<sup>st</sup> in Room 228 at the State House. Municipal officials are encouraged to attend if they are able, or to otherwise let their legislators know how they feel about the proposed dissolution of the municipal revenue sharing program.

## The Marked Contrast in Pension Liabilities on the State and Local Level

In his address to the Maine State Legislature two weeks ago, Governor LePage suggested that the State was in a precarious financial situation in no small part because of its unfunded pension liabilities, and that there were at least a couple of municipalities also on the brink of insolvency. As part of the Governor's proposed biennial state budget, he is proposing to eliminate the cost of living increases for state and school teacher retirees for a couple of years and, after that, capping the cost of living increase to 2% for current retirees under the Maine State Retirement System (System). The Governor's budget proposal increases the retirement age to 65 (from 62) for non-vested state employees and bumps the employee contribution into the System by 2%, bringing the total contribution up to almost 10% of a state employee's paycheck.

The Governor's statement about municipalities on the brink of bankruptcy, impliedly for pension liability reasons,

and his proposed budget proposing decreasing COLAs and increasing employee contributions, have caused a good deal of concern within the municipal community.

**Maine State Retirement System.** Created in 1942, the System is an independent public agency of the state. The System administers defined benefit retirement programs for state employees, the state's public school teachers, judges, legislators and employees of the 293 municipalities and other public entities. Each of the retirement programs within the System are administered separately and transfers between the programs do not occur. The System has additional responsibilities, which include paying the benefits to former governors and their surviving beneficiaries, managing a group life insurance program and administering defined contribution retirement plans.

**Types of Retirement Plans.** Typically a retirement plan offered by an employer

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# Vitality of Records Funding Rule Discussed

Last week, the Health and Human Services Committee held both the hearing and work session on LD 105, *Resolve, Regarding Legislative Review of Chapter 13: Municipal Service Fee, a Major Substantive Rule of the Department of Health and Human Services*. This bill seeks final legislative approval of rules provisionally adopted by the Office of Data, Research and Vital Statistics (ODRVS), which puts into place the so-called “municipal service fee” assessment model.

The need for the assessment of a “municipal service fee” arose last year (2010), when it was discovered the state’s self-funded vital records program was facing a \$340,000 FY 2011 funding shortfall. In order to address the shortfall, ODRVS (the state agency responsible for the vital records program) submitted legislation to increase the amount of revenue collected by municipal clerks through the sales of vital records and require that 25% of that revenue be remitted to the state. As a result, the 124<sup>th</sup> Legislature enacted a bill authorizing ODRVS to promulgate major substantive rules to implement a state/municipal records fee sharing system. Since the rules were classified as “major substantive”, the rules must be finally adopted by the Legislature.

LD 105 provides the vehicle for final adoption of the rules.

As would be expected, ODRVS provided testimony in support of the legislation. Without final authoriza-

tion, the state’s vital records program would be underfunded by \$340,000. Speaking on behalf of the state’s vital records program staff, Dr. Stephen Sears, director of Maine Center for Disease Control, testified that while the funding system found in the rule addresses current funding shortfalls, more work needs to be done. Dr. Sears expressed appreciation for the collaborative effort between state and municipal vital records officials to explore alternative funding avenues and the importance of continuing those conversations.

MMA provided testimony in opposition to final adoption of the rules for three reasons.

**Municipal Service Fee Semantics.** First, by using the term “municipal service fee”, it is implied that the state is providing a “service” to municipalities, but it would be more accurate to say that municipalities are being mandated to provide a service on behalf of the state. While some might consider this concern trivial, or merely semantic, it is significant to the municipal officials who use local resources to deliver these services to their constituents.

**Fee Remittance Date.** Second, as drafted, municipalities must remit the state’s share of collected vital records fees by the 15<sup>th</sup> of each month. In addition to placing some additional administration burden onto municipalities, the mid-month revenue remittance date conflicts with some communities’ “warrant signing” schedules; that is, the day when boards of selectmen or councils meet to authorize payments of bills and remittance of state fees. In order to avoid requiring municipalities to amend their long-established and traditional warrant signing dates, MMA recommended that the vital records fee revenue remittance date be moved to the 30<sup>th</sup> of each month.

**Absence of Ongoing Legislative Oversight.** Third, although the title suggests otherwise, this is not really a rule establishing the value of services provided to a municipality. It is instead, a rule to rationalize providing a share of user fees to help fund a department in a

state agency. As a result, the methodology used to calculate the “municipal” assessment fee is based on the size of ODRVS’s funding shortfall. In order to meet the office’s FY 2011 (\$382,000) funding shortfall, the “municipal service fee” is set at 40% of the increase in municipal vital records fees adopted by the Legislature in 2010.

The rule further authorizes the agency to increase the “municipal service fee” by no more than 5% per fiscal year, without the benefit of a public hearing or legislative oversight. In response to this concern, state agency officials pointed out that while that authority is provided, the rule further limits the state’s total “take” of the fees collected by the municipality to no more than \$442,665 per year.

However, this limit does not completely address municipal officials’ “oversight” concern or the fact that the “service fee” calculation is based on unfunded need rather than the actual cost to the state for providing “services” to municipalities. As a result, MMA recommended that the transfer of revenue from the municipalities to the state be codified in statute and the “municipal service fee” rule sunset on June 30, 2011. This amendment would simply shift program funding decisions from the state agency to the Legislature.

At its work session on Thursday last week, the Committee unanimously voted “ought to pass as amended” on LD 105. The amended version of the rule incorporates all of the municipal community’s suggestions into the rule.

First, in acknowledgment that the vital records system is managed collaboratively between the state and municipalities, the amendment renames the title of the rules from “municipal service fee” to “state share of vital records fee”. Second, the amendment moves the date by which municipalities must remit the state’s share of fee revenue from the 15<sup>th</sup> to the 30<sup>th</sup> of each month. Finally, the amendment repeals the language in the provisionally adopted rule authorizing the state to increase its share of the fee revenue by up to 5% each year.

## Legislative Bulletin

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# Déjà Vu All Over Again: The Desire to Eliminate CSOs

On Wednesday, February 23<sup>rd</sup>, the Environment and Natural Resources Committee held a public hearing on LD 261, *An Act to Eliminate Combined Sewer Overflows in Maine Waters*. LD 261 would simply prohibit all combined sewer overflow discharges as a matter of law. A similar bill was introduced last session during the 124<sup>th</sup> Legislature. The arguments that prevented this bill from advancing through the process were the significant and immediate cost, the time it takes to get the necessary infrastructure in place, and the fact that the State already has a plan in place to separate sewer and storm water collection systems. These same arguments are still relevant today.

The bill's sponsor, Representative Kim Olsen of Phippsburg, introduced the bill to the Committee. According to Representative Olsen, LD 261 presented a broad concept that is intended to be worked and transformed into something that both sides of the issue could agree upon once it goes through the legislative process. In other words, the bill would provide a means by which interested parties, such as environmental experts, businesses, municipalities and Committee members, can provide input in order to address the issue of cleaning up Maine's waterways in a more timely fashion.

All testifying agreed that combined sewer overflow is a real issue for our waterways, but the distinction between the two sides was clear as to how best address this issue.

**Inflows.** Written testimony was provided from two parties supporting LD 261. A resident of Phippsburg believed that the Department of Environmental Protection (DEP) has been remiss in its duties to clean up Maine's waterways as it relates to overboard discharges. He felt supporting this bill would address this lack of significant results from DEP as evidenced by discharge quantities still being released into Casco Bay, the Lower Kennebec and the Penobscot Rivers. The other supporter was the executive director of the Maine Aquaculture Association (MAA). MAA's reasons for supporting the bill included Association

members make their living on and in the water every day and the health, welfare and quality of the animals and products produced by farms are directly impacted by water quality.

**Outflows.** The opponents of the bill included two municipalities, the Maine Waste Water Control Association, DEP and the Maine Municipal Association.

The two municipalities provided specific details related to their respective combined sewer overflow (CSO) Master Plans and the progress made to date. Both have completed Phase I of their respective Plans and CSO reductions were documented by each. In Bangor, approximately \$43 million has been spent on this effort resulting in a 58% reduction in CSO events and an estimated 45% reduction in CSO volume. Biddeford expended \$30 million to separate

approximately 10,000 feet of combined sewer lines and to improve the waste water treatment plant and holding tank facilities and, as a result, has lowered their licensed CSO points from 15 of a couple of years ago to 11.

Both municipalities indicated that if this bill passed a significant financial burden would be placed on local communities. Other opponents supported what the two municipalities claimed by documenting approximately \$300 million as the funding needed to complete CSO abatement plans. Testimony was also provided about what has been accomplished to date, which is a reduction of approximately 65% in the volume of wastewater discharged through CSO points from 1989 until 2009.

As of today, a work session on LD 261 has not been scheduled.

## Dumping on Snow Dumps: Thoughts on LD 333

**Background.** One of Maine Municipal Association's (MMA) bills that is part of the Legislative Policy Committee's legislative agenda has a public hearing scheduled this coming week. The Environment and Natural Resources Committee will be listening to testimony on LD 333, *Resolve, Directing the Department of Environmental Protection To Amend Its Rules Regarding Snow Dumps*, on Wednesday, March 2<sup>nd</sup>. This resolve directs the Department of Environmental Protection (DEP) to amend its rules regarding snow dumps to exempt from DEP licensing requirements snow dump operations conducted by a municipality for the primary purpose of relocating accumulated snow from public rights-of-way for the safety and convenience of the traveling public.

**The Press.** In recent articles about this resolve, the Lewiston Sun Journal and the Portland Press Herald inaccurately reported that MMA is supporting legislation that would allow municipalities to

dump snow directly into fresh waters of the state. This is simply not true. There is a state law that prohibits the dumping of snow into the fresh waters of Maine, and the proposed legislation in no way amends or weakens that statutory prohibition.

**The Real Issue.** MMA believes that local government has the capabilities and environmental consciousness to make sound decisions concerning the health and welfare of the communities they serve. Therefore, MMA feels the siting decisions can be made at the local level and do not require DEP participation. At least some elements of the Maine press apparently disagree.

**Your take.** The State and Federal Relations staff at MMA is curious what others think about this legislation. If you have a moment and would like to share your opinion on this matter, please feel free to email Greg Connors at [gconnors@memun.org](mailto:gconnors@memun.org). Thank you in advance for sharing your point of view on this issue.

# Motor Vehicle Registration Fee Increase

On Thursday this week, the Transportation Committee held a public hearing on LD 288, *An Act to Amend the Laws Governing Municipal Vehicle Registration and License Agent Fees*. The bill is sponsored by Rep. Alan Casavant of Biddeford on behalf of the Maine Municipal Tax Collectors and Treasurers Association (MMTCTA).

The bill simply seeks an increase to the agent fees municipalities collect for processing state motor vehicle registrations. As proposed, the fee for a new registration would increase from \$4 to \$6, and the fee for processing a renewal registration would increase from \$3 to \$5. Under existing practices, in all but 40 small communities, residents can choose to register motor vehicles either with municipality when paying the excise tax or at a state motor vehicle bureau office.

Other than making trips to two different offices, the only other difference is that an agent fee is not assessed by the state. In other words, a resident choosing the register at a state office would save \$4/year on a new registration and \$3/year for a renewal.

Representatives from MMTCTA, MMA and the Maine Service Center Coalition all provided testimony in support of LD 288.

David Little, Bangor's tax collector/deputy treasurer and vice president of MMTCTA, led off with testimony for the proponents. Mr. Little pointed out that fees were last adjusted in 1991 and if the fees had been annually adjusted for inflation, the fee for a new registration would be nearly \$6 and \$4.50 for a renewal. He also pointed out that the City registers nearly 90% of city's automobile

inventory on behalf of the state, and as a result of the increasing cost associated with administering the program, as well as the cost associated with storing the necessary registration materials, the fee increase was warranted.

After the various proponents testified in support of LD 288, the Maine Bureau of Motor Vehicle's Gary Hinckley testified "neither for nor against". Mr. Hinckley stated that the state appreciated the work of the municipalities and agreed that it had been a long time since the fees had been last adjusted. He did however raise a concern that the \$2 increase in the fees might encourage more people to complete the registration process at a state rather than a local office.

The work session on LD 288 is scheduled for Friday, March 4<sup>th</sup> at 10:00 a.m.

## Obit: LD 136

On Wednesday, February 23<sup>rd</sup> LD 136, *An Act to Amend the Unemployment Compensation Law Regarding Denial of Benefits for Refusing to Accept Work*, died suddenly. The Labor, Commerce, Research and Economic Development Committee pronounced LD 136 dead with a unanimous Ought Not to Pass vote (of members present). LD 136 was a friend of direct reimbursers throughout the state. LD 136 is survived by its sponsor, Representative Steve Wood (Sabattus), the Town of Greene and the Maine Municipal Association.

Details of the death are sketchy at this time but people standing by the scene thought it was a case of "buyer beware" and that the medical professional on the scene did not apply the appropriate life resuscitation measures to the victim. Merely pointing out that the victim (LD 136), as currently written, did not have the appropriate defense mechanisms in place to survive the attack was insufficient to prevent the unfortunate demise. At least one witness at the crime scene felt that more could have been done to save LD 136 and provide the survivors more hope. Ultimately, the victim's survivors were held to blame; that is, the Town of Greene and other "direct reimbursers" employers in the world of unemployment compensation essentially choose the unfortunate results they experience.

In memory of LD 136, municipalities can contribute to the Unemployment Compensation Trust Fund.

**Translation:** LD 136 was a bill that tried to assist direct reimbursers in the unemployment compensation system in situations where they wanted to offer a job that required a license to an ex-employee collecting unemployment but couldn't because the ex-employee had

lost the necessary license. Therefore, the employer had to continue to pay a portion of that ex-employee's unemployment benefits even though the separation triggering the unemployment benefit was caused by a subsequent employer. The bill's intent was to allow direct

reimbursers to discontinue payment of unemployment compensation in that situation when the reason for the ex-employee not being rehired was due to an "unreasonable" forfeiture of the license necessary to perform the job being offered.

While members of the Committee were sympathetic to the Town of Greene's experience, the consensus was that LD 136 did not expressly address the issue of direct reimbursers and a subsequent separation event. A representative from the Department of Labor drove home that flaw in LD 136. Other comments were that "unreasonable" needed to be better defined and the current end result to a situation, like what the Town of Greene experienced, is just the gamble direct reimbursers take when choosing that option over the "tax contribution" option that must be chosen by non-governmental employers. In short, there wasn't enough sympathy for Greene's situation to resuscitate LD 136 when it needed life support. For further details on the Town of Greene's situation, please refer to the article entitled "Separation Anxiety" in the February 11<sup>th</sup> edition of the *Legislative Bulletin*.

# The “Highway Simplification” Recommendation Finally Sees Light of Day

The Department of Transportation’s (DOT) highly anticipated *Highway Simplification Study* report is now publicly available. The report summarizes the results of 12 months of work conducted by a team of municipal and state agency officials and private industry representatives charged with simplifying municipal and state maintenance responsibilities over Maine’s collector road system.

The report and fiscal impact spreadsheets can be found on the Department’s website at: <http://www.maine.gov/mdot/hss/index.htm>. A link to that site is also posted on MMA’s website ([www.memun.org](http://www.memun.org)).

Under existing laws and practices, municipalities are responsible for maintaining both minor and major collector roads in the winter, while the state is responsible for summer maintenance and capital improvements on those roads.

As proposed by the 15-member Policy Working Group (PWG) which developed the recommendations that make up the DOT report, the year-round maintenance for the minor collector road system would become a municipal responsibility and the state would be responsible for year-round maintenance of major collector roads. Prior to the transfer of responsibility, the state would be responsible for improving the minor collector road system to a prescribed 10-year standard. The intent is to ensure that municipalities would not have to invest any capital funds into the minor collector road system for at least 10 years.

Although the PWG faced many hurdles, one of the greatest was how the Group’s proposal would fund the future capital improvements for the minor collector roads after the municipality had assumed year-round maintenance obligations. The municipal members on the PWG advanced a proposal that held the state responsible for future capital improvements. Not surprisingly, the state representatives advanced a proposal that would hold municipalities responsible for the capital improvements to minor collectors.

As reflected in the final report, the Department’s “threading the needle” ap-

proach recommends that the municipalities and state share equally in the future cost of light capital improvements on minor collector roads.

Much credit is due to the report’s author, Deputy DOT Commissioner Bruce Van Note, for the presentation of the

## Informed Growth Act in Hot Seat

In 2007, the 123<sup>rd</sup> Legislature enacted the Informed Growth Act (IGA). As enacted, the law requires all proposed retail developments over 75,000 square feet in size undergo an impact assessment, paid for by the developer, to determine whether or not the proposal will have a positive or negative impact on the municipality and the region.

When the bill was first introduced, the municipal community took a middle-ground approach to the issue. While municipal officials believed that in some cases an economic impact assessment could help to inform the decision making process, they did not believe the state mandate was necessary. Instead, municipal officials advocated for an approach that would allow municipalities to voluntarily adopt IGA into local ordinances.

Unfortunately, a majority of the members of the 123<sup>rd</sup> Legislature didn’t believe that the choice in this matter should be left to local legislative bodies (i.e., councils and town meetings) and enacted IGA as a blanket requirement for all municipalities to follow.

As a result of the enactment of IGA, all communities are required to undertake a prescribed impact assessment procedure for determining whether or not a large retail business should locate within the municipal boundaries. This review must occur whether or not the residents in each municipality believe this type of review fits with the existing local-level development review processes. With the adoption of this law, the state determined that it knew the correct approach for every community, small or large, urban, suburban or rural, in every geographic corner of the state.

Furthermore, this intrusion into the procedures and authorities of local leg-

islative bodies was particularly unnecessary and unwelcome with respect to the development review procedures adopted by municipalities that have already taken every step in the comprehensive planning and land use planning process to not only prepare for but actually welcome retail development within their retail development zones. These same municipalities have adopted ordinance provisions for the specific purpose of attracting and responsibly integrating large-scale retail development within their communities. Even though the policies enacted by these communities effectively ensured that large retail stores would not develop where they were not welcome, and instead locate in more urban settings and provide services to residents in a large regional area, the Legislature decided in 2007 that those efforts were not good enough.

On Wednesday this week, IGA was the topic of debate as the State and Local Government Committee held a public hearing on LD 322, *An Act to Repeal the Informed Growth Act*. The bill is sponsored by Rep. Tyler Clark of Easton.

As would be expected, many residents, lobbyists and interest group representatives were on hand to stake out their positions on the proposed repeal of the law. Proponents of the legislation included, MMA, a representative from Governor LePage’s Administration, business organizations, and project developers. Opponents to the bill included representatives from several small business owners’ groups, natural resources groups and members of the general public.

Proponents generally believe that the repeal of the IGA will help to tear down an unnecessary barrier to development and economic expansion.. The opponents of

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## LEGISLATIVE HEARINGS

### *Monday, February 28*

#### **Appropriations & Financial Affairs Room 228, State House, 10:00 a.m. Tel: 287-1316**

LR 2067 (no LD # yet) – An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2012 and June 30, 2013. (Governor’s proposed biennial budget)

**With the Joint Standing Committee on Taxation** (Part of the discussion will include various proposals to cut the state income tax by reducing penalties, increasing deductions and lowering the rate.)

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

LD 449 – An Act To Remove the Restriction against a Spouse’s Working in a School Administrative Unit in which the Other Spouse Serves on the School Board.

LD 444 – An Act To Require Annual Evaluation of Public School Teachers.

#### **State & Local Government Room 216, Cross State Office Building, 10:00 a.m. Tel: 287-1330**

LD 278 – An Act To Amend the Law Governing Municipal Disbursement Warrants.

#### **1:00 p.m.**

LD 344 – An Act To Authorize Cumberland County To Offer Certain Educational Services.

LD 345 – An Act To Modernize the Functions of County Government.

LD 594 – Resolve, To Enhance Economic Development in the City of Eastport by Facilitating the Ability of the City of Eastport To Transfer Ownership of Property.

### *Tuesday, March 1*

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

LR 2067 – Governor’s proposed biennial budget.

**With the Joint Standing Committee on Taxation** (The discussion will focus on proposed changes to the Municipal Revenue Sharing Program.)

#### **Environment & Natural Resources Room 214, Cross State Office Building, 1:00 p.m. Tel: 287-4149**

LD 484 – An Act To Allow the Burning of Certain Agricultural Products in Outdoor Wood Boilers.

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

LD 47 – An Act To Amend the Laws Governing Access to State and State Aid Highways To Allow a Break in a Control of Access.

LD 414 – An Act To Allow Landowners Road Access.

LD 456 – An Act To Create a Temporary Disability Parking Permit.

### *Wednesday, March 2*

#### **Appropriations & Financial Affairs Room 228, State House, 10:00 a.m. Tel: 287-1316**

LR 2067 – Governor’s proposed biennial budget. (The discussion will focus on the Maine State Retirement System.)

#### **Energy, Utilities & Technology Room 211, Cross State Office Building, 10:00 a.m. Tel: 287-4143**

LD 425 – An Act To Stimulate Demand for Renewable Resources.

#### **Environment & Natural Resources Room 214, Cross State Office Building, 9:00 a.m. Tel: 287-4149**

LD 311 – An Act To Improve Harbor Safety by Clarifying Requirements for Maintenance Dredging Permits.

LD 479 – An Act To Prohibit the Burning of Construction and Demolition Debris at Municipal Landfills and Transfer Stations.

LD 379 – An Act To Stop Unfunded Mandates Concerning Waste Discharge Licenses.

LD 333 – Resolve, Directing the Department of Environmental Protection To Amend Its Rules Regarding Snow Dumps.

#### **Health & Human Services Room 209, Cross State Office Building, 10:00 a.m. Tel: 287-1317**

LD 258 – An Act Relating to Vital Records.

LD 388 – An Act To Allow a Personal Representative To Obtain a Copy of a Death Certificate and To Direct the Department of Health and Human Services To Amend Its Rules Governing Vital Records.

#### **2:00 p.m.**

LD 424 – An Act To Revise the Laws Governing the Licensure of Public Water System Operators.

#### **Labor, Commerce, Research & Economic Development Room 208, Cross State Office Building, 10:00 a.m. Tel: 287-1331**

LD 304 – An Act To Promote the Hiring of Seasonal Workers.

#### **Veterans & Legal Affairs Room 437, State House, 10:00 a.m. Tel: 287-1310**

LD 343 – An Act To Facilitate a Change of Location for Liquor Retailers.

### *Thursday, March 3*

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

LR 2067 – Governor’s proposed biennial budget. (The discussion will focus on state employee and retiree health insurance.)

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

LD 257 – An Act To Protect Children in Public Schools by Changing Notification Requirements Regarding Sex Offenders.

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

LD 281 – An Act To Create a 5-year Statute of Limitations for Environmental Violations.

#### **Taxation Room 127, State House, 1:00 p.m. Tel: 287-1552**

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LD 433 – An Act To Exempt from Income Tax the Income of Nonresidents Working in Maine Pursuant to an Interlocal Agreement.

**Transportation**

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

**Tel: 287-4148**

LD 144 – An Act To Regulate the Use of Magnesium Chloride.

LD 354 – Resolve, To Improve the Intersection of Route 1 and Manktown Road in Waldoboro.

**Friday, March 4**

**Appropriations & Financial Affairs**

**Room 228, State House, 10:00 a.m.**

**Tel: 287-1316**

LR 2067 – Governor’s proposed biennial budget. (The discussion will focus on teacher retirement and health benefits.)

**Pension Liabilities (cont’d)**

can be a defined benefit retirement program (pension) or a defined contribution retirement program. Historically, a defined benefit program is what public employers have typically offered their employees. This type of retirement plan offers employees a specific annual benefit when they retire, usually based on the length of their service and an average salary calculation.

The defined contribution program has the employer contributing a specific amount into the employee’s retirement account on a periodic basis.

Defined benefit programs can run into issues when the cash and investments in the retirement plan plus anticipated annual required contributions plus anticipated interest earnings are not expected to meet future withdrawals by retirees from the retirement plan. When this situation occurs, it is referred to as an unfunded actuarial accrued pension liability (UAAL). When referring to an UAAL, many times it will be in the form of a ratio of actuarial value of assets to actuarial value of liabilities (which will be referred to as “funding ratio”).

Obviously, a sizeable UAAL, or low funding ratio, should be of concern to employers, employees, lenders, investors and credit analysts. As Standard & Poor’s indicated in their article entitled “*Outlook: U.S. State and Local Governments Must Navigate Turbulent Conditions to Maintain Credit Stability*”, steep losses in asset values and large unfunded estimated pension liabilities receive considerable attention and have led some commentators to express concern about governmental solvency.

This is what Governor LePage is trying to eliminate with his suggestions in his Budget Address (see above). Do these suggestions impact all participants in the various retirement programs at the System? That depends.

**State Employee/Teachers vs. Participating Local Districts.** When the

Governor referred to changes to the contribution rate and the benefits received from the System, he was referring to the retirement program for state employees and teachers, not the municipalities and other public entities that participate in another retirement program administered by the System as members of Participating Local Districts (PLDs).

Due to a number of factors, including a separate management group overseeing contributions into the System, the two retirement programs are in very different financial conditions.

As of June 30, 2010, the State Employee and Teacher retirement program has a funding ratio of 66%, down from 68% in 2009 and 74% in 2008. This represents an UAAL of over \$4 billion.

In contrast, as of the same date the PLD Consolidated Plan, which is the plan that most municipalities participate in at the System, has a healthy funding ratio of 93%, with a manageable UAAL of approximately \$139 million. Even more interesting, it has only been in the last few years that the municipally-based PLD component of the System has experienced UAALs of any amount and funding ratios of less than 100%. However, this slight downturn can be primarily attributed to the turmoil in the investment markets. Although the turmoil in the investment markets has hurt the position of the State Employee and Teacher retirement program, the entire scope of that UAAL cannot be attributed to just the market downturns beginning in 2008.

**Future Remarks.** So the next time you hear the Governor mentioning the Maine State Retirement System and unfunded pension liabilities, make sure to listen closely to which retirement program he is referencing as most likely he will be talking about the troubles of the State Employees and Teachers retirement program, not the relative health of the municipally-based Participating Local District component of the System. For more information on

these matters and the System, generally, visit their website at [www.msrs.org](http://www.msrs.org).

**Informed Growth Act (cont’d)**

LD 322 believe that IGA simply provides a tool to those municipalities that may be less prepared than others to deal with large retail sales development.

One of the most interesting points of debate centered on the meaning of section of the IGA law (30-A MRSA, section 4369), which reads as follows:

*“The municipal reviewing authority shall evaluate the impacts of the proposed large-scale retail development based on the comprehensive economic impact study; other materials submitted to the municipal reviewing authority by any person, including the applicant, state agencies, nonprofit organizations and members of the public; and testimony received during the public hearing under section 4368 to issue a finding of undue adverse impact or no undue adverse impact. The municipal reviewing authority may issue a land use permit for a large-scale retail development only if it determines that there is likely to be no undue adverse impact.”*

The debate over this element of the law, between proponents and opponents of LD 322, centered on the extent to which a municipality’s land use permitting authority’s hands would be tied by findings of “undue adverse impact” from the contracted economic impact study.

Based on the Committee members’ comments made throughout the hearing, it looks like a change to IGA will be forthcoming. The change to the law could take the form of an outright repeal of IGA or it could take the form of an amendment making the IGA process voluntary for any municipality that wants to adopt it. The Committee’s recommendation will be decided at its next work session, which is scheduled for Wednesday, March 2 at 10:00 a.m.

### **Agriculture, Conservation & Forestry**

LD 696 – An Act To Amend the Agricultural Working Dog Laws. (Emergency) (Sponsored by Rep. Strang Burgess of Cumberland; additional cosponsors.)

Current law provides that a municipal “barking dog” ordinance does not apply to agricultural guard dogs engaged in protecting livestock. This emergency bill limits that preemption to agricultural guard dogs working on property enrolled in the Farmland current use tax program or, if not so-enrolled, on property that is at least 5 acres in size, does not abut properties that are developed as residential, and is not located in a “growth area” in the municipality’s land use plan.

### **Criminal Justice & Public Safety**

LD 737 – An Act To Grandfather Certain Existing Buildings and Structures with Respect To Fire Safety Codes and Standards. (Sponsored by Sen. Saviello of Franklin County.)

This bill establishes the fire safety codes for all buildings and structures built prior to January 1, 2008 as the codes and standards in effect as of January 1, 2007.

### **Environment & Natural Resources**

LD 524 – An Act To Charge a Fee for Garbage Disposal To Encourage Recycling. (Sponsored by Rep. Bolduc of Auburn.)

This “concept draft” bill proposes to establish a fee, to be collected and retained by the municipalities, to offset the costs associated with the collection and disposal of household refuse and the collection of recyclable materials at municipal landfills.

LD 721 – An Act To Extend the Use of Underground Storage Tanks. (Sponsored by Sen. Courtney of York Cty; additional cosponsors.)

This bill allows underground oil storage tanks to stay in the ground upon the expiration of the manufacturer’s warranty period or after a period of non-service provided the tank is given a certain tank tightness test on an annual basis.

LD 733 – An Act To Allow a Person Who Has Lost a Home in a

Shoreland Zone To Obtain a Building Permit. (Sponsored by Sen. Whittemore of Somerset Cty; additional cosponsors.)

This bill allows for the rebuilding of a nonconforming structure in the shoreland zone that is located less than the required setback from the high water mark and gets removed, damaged or destroyed by any cause such that it loses more than 50% of its value. The current shoreland zoning guidelines allow for the reconstruction for damage by fire or similar causes within one year of the fire event. This bill would allow for reconstruction within three years of the date of removal, damage or destruction.

### **Taxation**

LD 684 – An Act To Clarify the Taxing of Property of Quasi-municipal Organizations. (Sponsored by Rep. Crockett of Bethel; additional cosponsors.)

The general rule is that property owned by municipalities that is located outside of the municipal jurisdiction is not eligible for a property tax exemption. Three specific exceptions to the general rule are provided for airport property, sewer disposal property, and the property of municipal water, light or power utilities. This bill would repeal the specific exemptions to the general rule and create a blanket property tax exemption for all municipal and “quasi-municipal” property, wherever located.

LD 686 – An Act To Promote Small Business in Maine. (Sponsored by Rep. Cornell du Houx of Brunswick; additional cosponsors.)

This bill would create a property tax exemption for the first \$75,000 in value of any machinery, equipment, furnishings or similar personal property owned and regularly used by any small business in the state.

LD 706 – An Act To Base the Motor Vehicle Excise Tax on Ninety Percent of the Maker’s List Price. (Sponsored by Rep. Harmon of Palermo; additional cosponsors.)

This bill reduces the base of the motor vehicle excise tax from the full “manufacturer’s suggested retail price” (MSRP) to 90% of the MSRP. The bill also redesigns the excise tax rate structure in such a way as to make that reduction in base value revenue neutral with respect to excise tax revenue collections.