

School Consolidation Penalties

The Education Committee held public hearings last Friday on 13 bills that would amend the school consolidation law in various ways but primarily for the purpose of waiving the financial penalties applied to those school systems that are not in compliance with the consolidation requirements. Many of those bills would exempt specific school systems from the penalties, each school system with a story to tell. Four of those bills would waive the penalties altogether, wherever they might be applied throughout the state. Those four bills are:

LD 139, *An Act to Eliminate the Penalty for Schools That Did Not Reorganize*, sponsored by Rep. Peter Edgecomb of Caribou;

LD 268, *An Act to Make the Consolidation of School Administrative Units Voluntary and To Eliminate the Penalties for Units that Choose Not to Consolidate*, sponsored by Rep. Bruce MacDonald of Boothbay;

LD 385, *An Act to Amend the School Administrative Unit Consolidation Laws*, sponsored by Rep. Pete Johnson of Greenville; and

LD 786, *An Act to Eliminate the Penalty for School Administrative Units That Did Not Consolidate and Eliminate State Funding of Local Administrative Costs*, sponsored by Rep. Stephen Lovejoy of Portland.

Eight legislators spoke in support of those four bills, as did three school superintendents, a school committee member, a resident who served on a reorganization planning committee, a selectman and a town manager.

The Commissioner of Education spoke in modified support of the concept of doing away with the penalties.

MMA testified in opposition to simply removing the penalties and calling it good. To do so without also allowing for some sort of reconsideration process for all the compliant consolidators would be fundamentally unfair to hundreds of communities who reasonably thought the state was being serious and not flippant on the penalty issue.

Supportive testimony. The testimony in support of doing away with the penalties for non-consolidation presented a harsh and unflattering description of the school consolidation law and its implementation. The school consolidation law of 2007, which has been amended every year since, was vari-

(continued on page 2)

Shoreland Zoning and the 250 Foot Setback

Last Friday—Opening Day at Fenway Park—the Environment and Natural Resources Committee held a public hearing on LD 219, *An Act to Amend the Laws Governing Shoreland Zoning*. LD 219 would reduce the width of land that is subject to the shoreland zoning land use controls from 250 feet to 75 feet from the high water line or upland edge of any body of water, river or wetland. The legislation would not affect any existing municipal ordinances, except for allowing those ordinances to be amended accordingly.

It was sure to be a long morning of testimony as the Committee had reserved an overflow room which was itself almost full with individuals eager to testify on LD 219.

A word from the Sponsor. Senator Lois Snowe-Mello of Auburn (District 15), the sponsor of the bill, introduced LD 219 to the Committee. According to Senator Snowe-Mello, LD 219's purpose is to try to engage both proponents and opponents of the current shoreland zoning system so that each side could weigh in and the Legislature could get it

right. According to the Senator, she is a supporter of shoreland zoning as a good thing, but, like all good things, sometimes it is necessary to ask if we have too much of it. She went on to say that since 1971 the setback requirement has expanded to the current 250 foot setback.

The sponsor said she wanted two results from this legislation: (1) to protect the environment and preserve what makes Maine special; and (2) to determine what are reasonable restrictions for use on privately-owned properties.

75 footers. Supporters of the reduction to a 75 foot setback provided testimony that the current 250 foot setback was very restrictive to them as property owners. The restriction, they claim, makes it difficult for these owners with land in the shoreland zone to realize the full value of their property, yet they believe they are still taxed on it at full value. Also, they claim to be negatively affected when they try to sell the shoreland property and the buyer realizes the limited use of certain portions of the property. The result of this limited

(continued on page 3)

Penalties (cont'd)

ously described as dishonest, conceived in isolation, applied with discrimination, riddled with exemption, driven by its penalties, falsely shrouded in educational policy but motivated by money, a failure in achieving actual savings, contributing to a loss of local control, and damaging to communities. Case after case was presented where rational, civic-minded people were required by this law to participate in a very frustrating and uncertain “reorganization planning” process which ultimately yielded nothing better than a Hobson’s choice between two negative and almost equally untenable alternatives.

Commissioner’s testimony. Education Commissioner Steven Bowen did not contradict these characterizations of a school consolidation law belonging to a previous Administration when he provided information to the Committee about the new Administration’s approach going forward. He recognized the problem with relying on a “one size fits all” strategy, and laid out the framework of his thinking and the Governor’s on the subject.

That framework begins with the belief that regional approaches can be a way to save money and improve educational services, although a formal restructuring of the school governing units is not necessarily the way to achieve that result. Other approaches include the increased utilization of regional collaboratives and other creative approaches. To that end, Commissioner

Bowen supports recreating something like the Fund for the Efficient Delivery of Educational Services which was created with the “Question 1A” citizen initiative adopted by Maine voters in 2004 but left abandoned by the Legislature and ultimately repealed. The thrust of that program was to dedicate a percentage of the General Purpose Aid to Education subsidy to the “Efficient Delivery” fund and allow school systems to apply for grants from that Fund to incentivize and implement creative system-delivery improvements.

With respect to the four penalty waiver bills before the Committee, Commissioner Bowen said that the Administration recognized the interest in waiving the penalties but also recognized the frustration expressed by the school systems that consolidated according to the rules of consolidation to avoid the penalties. So as not to send the wrong message to those school systems, the Administration is proposing to: (1) keep the penalties in place for the next school year (FY 2012); and (2) set aside \$1.5 million a year out of the GPA subsidy over the next two years to make available to any school system on a competitive basis as a grant for efficient-delivery incentives. Because the application of the consolidation penalties actually creates a subsidy advantage to the non-penalized school systems, the Commissioner’s approach appears to be designed to allow that subsidy advantage to occur for the next year before abandoning the penalty approach (and related subsidy advantage) altogether. The Commissioner also indicated he did not believe the withdrawal process needed to be changed in any significant way.

MMA opposed waiving the consolidation penalties, also without contradicting anything the proponents said about the school consolidation law which was hastily written, poorly implemented, and based on the negative motivation of penalty. From the first inception of the school consolidation considerations in 2007, MMA and other collaborators were proposing an incentive-based school approach that would utilize the Fund for the Efficient Delivery of Educational Services, just as Commissioner Bowen is now suggesting. The Legislature quickly killed the incentive

based approach when presented in 2007.

From the municipal perspective, the Commissioner’s approach is close to the target except it doesn’t go far enough to address the “bait and switch” phenomenon associated with eliminating the penalties. Far too many school systems felt coerced to make certain permanent decisions based on the threat of penalty to now eliminate the penalty system, just three years later, without a shot at reconsideration. If the penalties are going to be waived after just a couple of years of implementation, a reconsideration opportunity should be provided for those communities who made essentially life-changing decisions on the assumption that the penalties would be permanent.

It is an issue that goes directly to how much local government should trust the Legislature to do what it says it is going to do.

MMA also testified in opposition to a component of LD 786 which would require all school administrative costs (e.g., expenses associated with the superintendent’s office) to be paid by the property taxpayers, without any state support. The theory behind this provision in the bill is to force administrative consolidation by making those costs entirely locally borne. MMA testified in opposition because taking school administrative costs out of the Essential Programs and Services school funding model would severely impair the integrity of the EPS model as a roughly accurate representation of what should be considered the “adequate” costs of providing a complete and balanced public school education. There would be some additional irony in the state refusing to help pay for a school service (administration) upon which the state so heavily relies.

On Wednesday this week the Education Committee held a work session on all the penalty waiver bills. The Committee picked two of the generic “penalty waiver” bills (LD 139 and LD 385) to become vehicle bills to potentially present to the full Legislature the Committee’s recommendation on this subject. A subcommittee of the Education Committee was appointed to write into one or both vehicle bills the Committee’s recommendation. Stay tuned.

Legislative Bulletin

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

Subscriptions to the *Bulletin* are available at a rate of \$20 per calendar year. Inquiries regarding subscriptions or opinions expressed in this publication should be addressed to: *Legislative Bulletin*, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330. Tel: 623-8428. Website: www.memun.org

Editorial Staff: Greg Connors, Kate Dufour, Geoff Herman, and Laura Veilleux of the State & Federal Relations staff.

The Taxation Committee Scorecard

Last week's *Legislative Bulletin* described the public hearings held a week ago by the Taxation Committee on nine bills of direct municipal interest. On Monday this week, the Committee disposed of those bills – one way or another – in an efficacious manner. Here's the scorecard:

Killed in Committee (i.e., receiving a unanimous “ought not to pass” report).

LD 229, requiring tax collectors to formally notify a delinquent property taxpayer every time a third party made a payment toward the property owner's back taxes.

LD 684, creating a blanket exemption for property owned by a municipality or quasi-municipal entity wherever that property is located. With certain specific exemptions, current law establishes as a general rule that municipal and quasi-municipal property located outside of the municipal boundaries is not tax exempt.

LD 764, requiring municipalities to give back to the former owners any proceeds from the sale of tax exempt property that exceeded the back taxes, interest and costs.

LD 686, exempting small businesses from paying any personal property taxes if the value of their taxable personal property was less than \$75,000.

LD 822, exempting from personal property taxation all “office furniture and fixtures” and moving all retail personal property installed after April 1, 2008 from the Business Equipment Tax Reimbursement program (BETR) to the Business Equipment Tax Exemption program (BETE).

LD 1036, creating a special authority to create “credit enhancement” Tax Increment Financing (TIF) agreements in “blighted areas” provided the economic development occurring in those TIF districts actually created certain levels of net new employment.

Consent Agenda to be Enacted (i.e., receiving a unanimous “ought to pass” recommendation).

LD 297, allowing municipal treasurers and the treasurers of sanitary districts to use facsimile signatures on the paperwork they have to file in the registries of deeds. Current law allows for facsimile signatures with respect to some documents but not others. This bill would

allow the use of facsimile signatures on all lien-related documents.

LD 855, allowing plantations the same authority as currently provided to municipalities to enter into Tax Increment Financing agreements.

Divided Report. LD 823 would make relatively modest and common-sense changes to the Tax Increment Financing law, including relaxing the requirement that bond-funded projects in a TIF development program be accomplished within 5 years, increasing the allowable maturity date on those bonds from 20 years to 30 years to match the life of a TIF agreement, allowing grants as well as revolving loans to be part of a development program, and allowing the job training element of a development program to include persons who may not be residents of the

municipality.

Even though these changes would not affect or otherwise “end-run” any existing TIF agreement already approved at the local level, and even though all TIF agreements must ultimately be approved by the legislative body of the municipality entering into the agreement, and even though the uncontested testimony provided at public hearing was that these changes would help preserve or stimulate economic activity in at least three communities at the present moment, the Committee split along party lines in its “ought not to pass” report. The Republicans on the Committee voted to kill the bill and the Democrats voted to pass it, perhaps with some amendments.

At the very least, the bill will get a debate on the floor of the House.

Shoreland Zoning (cont'd)

use constitutes from their perspective a “regulatory taking” of their property. Because of this situation, testifiers felt that Maine government has too little respect for private property and it was time to make that case and change the status quo by enacting LD 219.

250 footers. Those opposing LD 219, including MMA, felt that this bill would have long-term, negative impacts on the waters in the State, which is why the current setbacks are necessary. Soil erosion and phosphorus loading was the major concern expressed by these individuals. The encroachment of development closer to the high water line would impair the lake water quality, waterfront property values and tourism. In addition to the environmental concern, it was brought to the Committee's attention that construction is allowed within the current 250 foot resource protection area. In most applications under the existing law (e.g., the “limited residential” application), development can easily occur within the 250 foot buffer and sometimes to within 75 feet of the high water mark. Because of these arguments, opponents felt this bill was unnecessary.

The State. The Department of Environmental Protection (DEP) chimed in to reiterate the point that in many cases development can occur within the 250 foot

resource protection setback by adoption of less stringent local ordinances. As examples, DEP referenced the development on the waterfronts of Augusta, Hallowell and Portland. DEP stated it has been flexible in allowing local deviations to the current setbacks and that a possible solution to the concerns of the proponents of this bill would be to allow DEP to amend the existing minimum guidelines to simplify them and allow more flexibility in certain situations.

The Committee's Setback. Based on some testimony at the public hearing, there is apparent confusion about what activities are allowed within the 250 foot resource protection areas at the municipal level. As a result of this claim, MMA was asked to get feedback from municipal code enforcement officers, planning board members and other municipal officials regarding their dealings with shoreland zoning issues and DEP. To help with that request, any municipal official with information about the implementation of the shoreland zoning system in their communities, particularly regarding their dealing with DEP and any specific difficulties with the requirements surrounding shoreland zoning, is asked to contact Greg Connors at gconnors@memun.org. This information would be very helpful to the Committee members as they try to sort out the real shoreland zoning issues.

The Illusion of State Boiler Inspections

On Tuesday of this week, the Labor, Commerce, Research and Economic Development Committee heard testimony on LD 375, *An Act To Exempt Boilers in Municipalities and Schoolhouses from State Inspection Requirements*. LD 375 provides municipalities and school systems the same general exemption from annual state boiler inspections that is provided by law to all other owners of “public accommodations” who own boilers constructed and installed in accordance with the rules adopted by the Board of Boilers and Pressure Vessels. Currently, no other business or place of public accommodation is required to have their hot water boilers “inspected” annually by the state...not the boilers in state buildings, not the boilers in county buildings, not the boilers in hospitals or private schools, not the boilers any business location where the general public congregates. Only boilers in “schoolhouses” and those owned by municipalities.

LD 375 is one of the bills advanced by MMA’s Legislative Policy Committee (LPC) to address certain state mandates that make no common sense to municipal officials and require unnecessary procedures and expenses at the local level.

LD 375’s sponsor is Rep. James Gillway of Searsport. When introducing the bill to the Committee members, Rep. Gillway indicated his lack of support for the bill as developed by the LPC. Apparently, after discussions with staff at the Department of Professional and Financial Regulation, Representative Gillway decided to go in a different direction. Because of these concerns, he indicated in his testimony that the recommended amendments were as follows: (a) all boiler units over 200,000 BTU’s installed (to code) where the public assembles must be inspected; (b) steam boilers would be required by the State to be inspected annually; (c) water boilers would be required by the State to be inspected every other year; and (d) the state’s own buildings would no longer be exempt.

Although a revised version of the bill as envisioned by Rep. Gillway was not available at the public hearing, it became obvious that this bill was going in a very different direction than the bill advanced

by the LPC. According to Rep. Gillway’s testimony, all he wants the amended bill to do is improve the law that helps to keep our public buildings safe by bringing more entities into the “state inspection” process.

The only testimony in support of LD 375 was provided by MMA. It was never the intent of MMA to suggest that inspections are not important. Rather, MMA’s point was that no other business or place of public accommodation is required to have their hot water boilers “inspected” annually by the State. As long as hot water heating and supply boilers owned by businesses and places of public accommodation are constructed and installed to a nationally recognized code and pass an initial installation inspection, there are no state-level annual inspection requirements of the operating boiler. If this is a reasonable standard for the private places where the general public assembles, as well as the state and county facilities where the general public assembles, it should also be a reasonable standard for the municipal and school facilities.

Aside from the unreasonable discrimination, municipalities are frustrated by the fact that the State is not actually providing inspections, at least in most cases. Instead, the municipal and school insurance companies are actually performing the inspections, which would occur without the archaic state mandate and which the municipalities and schools pay for through their policies. In most cases, the State is merely charging a fee for recording the insurance company’s inspection at an additional municipal expense of \$80 per boiler per year.

The insurance lobby. The first individual to speak in opposition to LD 375 was a lobbyist representing the American Insurance Association and the Property & Casualty Insurers Association. This lobbyist made the point he “respectfully” disagreed with the municipalities on this issue because without the state mandate the towns and cities would likely defer maintenance on their boilers and put citizens and school children in harm’s way. He likened that particular scenario to individuals who know their brakes are in need of replacing while convincing themselves

that they’ll be able to last for another month or two, exposing themselves to danger. That characterization apparently represents the insurance companies’ view of municipal government.

Another opponent was the collector of the fee, the Commissioner of the Department of Professional and Financial Regulation. Again, the primary concern was that the state inspection requirement allows the inspector to gauge the strength of the boiler components and evaluate whether a boiler can continue to be safely operated. As a result, this requirement protects school children and citizens in (narrowly selected) public buildings because of the reduced probability of a boiler explosion. The Commissioner then went on to compare Maine to other states. Apparently, a review of state inspection requirements revealed that a majority of states license and require the inspection of boilers in all places of public assembly, not just in schools and municipally owned buildings.

According to this testimony, only Maine and West Virginia have exempted from state requirements most boilers located in public places, including hotels, movie theatres, shopping malls and other commercial buildings.

Finally, the Commissioner pointed out that she didn’t agree with MMA’s “equity argument” because there are good reasons to exempt certain entities from the state’s inspection requirement. It was not clear which elements of Maine’s nearly universal exemption were appropriate and which were not.

Several others testified in opposition to the bill, including the Cianbro Corporation and Hartford Steam Boiler Inspection and Insurance Company.

Wrap-up. Under current law, the State has no statutory requirement to have its boilers inspected, the counties have no statutory requirement to have courthouses or jail boilers inspected, no business of any kind has any statutory authority to have its boilers inspected... it is only the municipalities and schools that need to undergo a so-called “state inspection” process, which is little more than sending an inspection certificate

(continued on page 5)

Taking Aim at the State's Firearm Preemption

On Monday this week, the Criminal Justice Committee held a public hearing on one of the bills included in MMA's 2011-2012 legislative agenda. That bill, LD 578, *An Act to Allow Municipalities to Restrict the Possession of Firearms in Certain Circumstances*, would entrust local legislative bodies (i.e. councils and town meetings) with the responsibility for determining whether or not to impose a very limited restriction on the possession of firearms in places where people gather to conduct municipal business.

Former Augusta mayor and newly elected state senator, Roger Katz of Kennebec County, bit the bullet and courageously agreed to sponsor this divisive bill. Great thanks are also owed to Sen. Nichi Farnham of Penobscot County and Rep. Mark Dion of Portland for signing on as co-sponsors of LD 578.

Under existing law, the state has preempted municipal home rule authority to regulate firearms, with the only exception being the adoption of firearms discharge ordinances. In all other circumstances, municipalities cannot regulate the possession of firearms.

As proposed in LD 578, the existing state preemption would be modified to authorize a municipality's legislative body to adopt an ordinance that prohibits the carrying of firearms in essential municipal offices and places of legislative assembly. The bill further limits the authority of the municipality by clearly defining the term "essential municipal offices" to mean the office of the municipal clerk, treasurer, tax collector, assessor, manager or administrator and the term "place of legislative assembly" to mean where the town meeting or council assembles to adopt budgets, laws and ordinances.

LD 578 simply extends to municipalities the *option* to provide the same level of protection the state has extended to legislators, state agency employees and the general public who convene in the state's capitol area.

In his testimony on LD 578, Sen. Katz shared his experience with an issue in Augusta, when the council was informed that a member of the audience was routinely carrying a firearm

to meetings. In order to address the concerns associated with the presence of the firearm, the City adopted a policy and posted a sign banning weapons in council chambers. However, the City was forced to revoke the policy and remove the sign, as both violated state law.

Sen. Katz believes that the ability to adopt the limited ordinance authority found in LD 578 would have enabled the City to address the circumstance and resolve the problem more directly.

In addition to MMA, the Maine County Commissioners Association (MCCA) and Portland City Councilor, Ed Suslovic, provided testimony in support of LD 578. Councilor Suslovic pointed out that residents are in the best position possible to determine how to regulate their communities. Becky Morgan, speaking on behalf of the MCCA, expressed support for the concept and suggested that the bill be amended to extend similar protections to county employees and offices.

The opponents to the bill included Rep. Rich Cebra of Naples, two representatives of the National Rifle Association (NRA) and the Governor's chief legal counsel, Dan Billings.

The common theme running through the testimony provided by the opponents was uniformity; that is, one process for all communities. Opponents believe that the state has rightfully preempted local control in this area to avoid the confusion that would result as some communities adopt the restrictions proposed in LD 578 and others do not. This town-by-town application of a limited restriction would only serve to frustrate the ability of law abiding citizens to protect themselves and their families.

In response to the request to add county employees and offices to the bill, one of the NRA representatives expressed concern that if enacted, the state's preemption would be eroded over time... the slippery slope argument. He believes that LD 578 is the first step to gutting the state's control over limitations on the right to bear arms. He further stated that the issue of limiting firearms in municipal buildings should be decided at the state level and not left

to individual communities.

Although the Governor's representative, Dan Billings, admitted that municipalities are good at acting quickly; that is, responding to an issue or crises in a timelier manner than a state or federal agency, he believes that the responsive nature of local government is also a problem. He is concerned that municipalities would be more inclined to react to the whims of unpopular minorities, and therefore, restrictions would be enacted locally, regardless of the local-level debate. Mr. Billings believes that the state's preemption over the regulation of firearms is important for two reasons: 1) it avoids the creation of a patchwork quilt of regulation; and 2) matters of significant public safety are best addressed by the Legislature and the Governor.

Whether or not the Legislature will entrust their local constituents with the responsibility to adopt very limited restrictions on firearms (similar to the safety measures enacted at the state level) will be determined this Friday when the Committee meets to vote on LD 578.

Boiler Inspections (cont'd)

to the state that the school or town has already paid for, along with a check for \$80 per boiler as a state filing fee. The insurance companies opposing this bill believe municipal and school officials, but not others, need this state mandate to keep their public buildings safe. Their claim, echoed by some legislators on the Committee, is that municipal and school officials will put the public's safety at risk by eliminating routine boiler inspections and deferring maintenance to these boilers unless the state retains this mandate.

Work session. At the work session held on Thursday, April 14th, the Committee decided to report LD 375 out as a resolve directing the Department of Professional and Financial Regulation to create a working group in order to determine exactly who should (and should not) be exempt from the state's mandated inspection requirements.

(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. We would therefore advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website: http://www.memun.org/public/MMA/svc/SFR/LD/LD_fr.htm.)

Criminal Justice & Public Safety

LD 1419 – An Act To Improve the Coordination of State and County Correctional Services. (Sponsored by Rep. Plummer of Windham; additional cosponsors.)

This bill makes a number of changes to the laws governing the state-county unified corrections system enacted in 2009. Among those changes, the bill substantially changes the make-up of the State Board of Corrections. The current 9 member board consists of two members from the county side, two members from the state side, one municipal member and four members representative of the general public. Under this bill the 9 member board would consist of 6 members from the county side, one member from the state side, one municipal member and one member representing the general public.

Energy, Utilities & Technology

LD 1264 – An Act To Improve the Energy Efficiency of Public Buildings and Create Jobs. (Sponsored by Sen. Bartlett of Cumberland County.)

This bill applies an energy efficiency standard to all buildings constructed by the State, counties, schools and municipalities. The standard is that the building must meet the greater of: (1) 20% above the energy efficiency standards in effect for commercial and institutional buildings according to the state's uniform building and energy code (MUBEC); or (2) the green design building standard most closely related to the building and project type. With respect to municipal governments, this bill expressly overrides home rule authority.

LD 1382 – An Act To Protect Homeowners Regarding Sewer Liens. (Sponsored by Sen. Hobbins of York Cty; additional cosponsors.)

This bill prohibits a sanitary district from enforcing a sewer lien against the owner of a property when the owner does not occupy the property. Instead, the sanitary district must assess the rates against the person occupying the property and enforce the lien for civil action rather than a mortgage lien process.

Environment & Natural Resources

LD 1328 – Resolve, To Create a Working Group To Study the Subdivision Laws. (Sponsored by Rep. Morissette of Winslow; additional cosponsors.)

This resolve directs the Department of Public Safety to create a working group to study appointed by the Governor, a person representing home builders, a person representing real estate builders, and eight people appointed by the Senate Chair of the State and Local Government Committee (including one legislator from that Committee, one citizen, four lawyers, two of whom practice in the area of land use law, one surveyor, and one civil engineer). The report and recommendations must be submitted to the Legislature by January 30, 2012.

LD 1387 – An Act To Restore Exemptions in the Natural Resources Protection Act. (Sponsored by Rep. Cebra of Naples; additional cosponsor.)

This bill repeals the current law generally authorizing the maintenance and repair of existing road culverts without obtaining a permit under the Natural Resources Protection Act and replaces it with a standard that does not require a NRPA permit provided the maintenance and repair does not include the slip lining or invert lining of a culvert or any other alteration that results in reduced flow area through the crossing structure. With respect to the replacement of existing culverts, this bill requires: (1) the replacement to match the stream grade and not exceed 2% between the inlet and outlet of the crossing structure; and (2) the culvert be embedded in the stream bottom a minimum of one foot and at least 25% of the culvert's diameter. The bill also establishes a working group made up of state agencies and

other interested stakeholders to develop a statewide aquatic conservation and restoration strategy plan.

Health & Human Services

LD 1294 – An Act To Impose a 90-day Residency Requirement in Order To Receive State Assistance. (Sponsored by Rep. Guerin of Glenburn; additional cosponsors.)

This bill establishes a 90-day state residency requirement in order to receive benefits under the federal-state MaineCare program, food stamp program and Temporary Assistance for Needy Families (TANF) program. The bill also requires an applicant to have an established residency in a municipality for 90 days before being eligible for General Assistance.

LD 1370 – An Act To Amend the Laws Governing General Assistance Programs. (Sponsored by Rep. Cushing of Hampden; additional cosponsors.)

This bill makes a number of changes to the laws governing the General Assistance program, including: (1) setting the denominator in the lump sum proration calculation as the defined "household need"; (2) increasing the duration of ineligibility for fraud or work-related violations from 120 days to 180 days; (3) allowing "Circuit Breaker" benefits to be counted as income; and (4) expanding the list of "potential resources" a GA applicant can be required to utilize in good faith. The bill also directs the Department of Health and Human Services to develop a plan to provide municipalities by December 31, 2012 with electronic access to the state's automated client eligibility system.

LD 1431 – An Act To Establish Standards for the Administration of General Assistance Programs. (Sponsored by Rep. Stuckey of Portland; additional cosponsors.)

This bill requires all municipalities and all municipal officials administering the General Assistance program be certified by the Department of Health and Human Services to perform that function. The bill also requires all municipalities to maintain an electronic record of all applications and all dispositions of each General Assistance case. The bill also requires all General Assistance administrators to actively assist any applicant potentially eligible for supplemental social security disability benefits in their application for that program by helping complete the required application, ensure the appropriate medical evidence is submitted in support of the application, arrange for any additional medical assessments, and obtain legal representation for the individual. The bill also directs DHHS to take over the administration of General Assistance for any municipality not properly certified, but the municipality would remain financially responsible for all assistance provided by DHHS in such an event. The bill also establishes a new section in General Assistance law to cover the issue of "improper administration" by creating a complaint response program including a process for DHHS investigation, the execution of a corrective action plan, and a process for the complainant to obtain a fair hearing.

Judiciary

LD 1082 – An Act Concerning the Protection of Personal Information in Communications with Elected Officials. (Sponsored by Rep. Nass of Acton.)

This bill amends Maine's Freedom of Information Act to provide that certain information in communications between constituents and elected officials is not a public record, including: (1) any medical information about an individual; (2) credit or financial information; (3) information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family; or (4) an individual's social security number.

LD 1465 – An Act To Amend the Laws Governing Freedom of Access. (Sponsored by Sen. Rosen of Hancock Cty; additional cosponsors.)

This bill would amend Maine's Freedom of Access Act, or "Right to Know" law, in the following ways. The bill: (1) requires notices of public meetings to be provided at least 3 days prior to the meeting; (2) creates an affirmative duty for a governmental entity to provide copies of public records to people at their request rather than just providing an opportunity to examine those records; (3) provides the requestor with the right to obtain the copies of those records in all available formats, such

as by photocopy or electronic or magnetic formats if available; (4) creates a duty for the governmental entity to explore obtaining assistance at a reasonable cost, to be borne by the requestor, so that the public record can be provided in the requested medium; (5) requires the public records to be mailed if so requested at a mailing charge no greater than actual mailing costs; (6) requires all records requested to be immediately provided unless the records have to undergo redaction or are not in public use or are in storage; (7) requires a certification be provided to the requestor if there will be any delay in immediately providing the public record and further provide the requestor with the right to copy or inspect the record within 5 business days or have the records mailed or e-mailed within that period of time; (8) creates a special standard for “large or multiple requests” which allows for the records to be provided as they become available if they cannot be provided “in the exercise of due diligence” within the 5-day period; (9) requires a cost estimate to be provided within 3 business days for any request that may exceed \$100 in costs calculated at the maximum \$10 per hour rate allowed under current law for searching for, retrieving and compiling requested records; (10) treats any failure to comply with the established response-time schedule to be considered a denial of the request and subject to enforcement procedures; (11) establishes a 10-day period of time for a requester to complete an inspection of records being reviewed, with extension periods provided according to a certain process; (12) prohibits a governmental entity from inquiring as to the purpose of a FOAA request; and (13) requires every governmental agency to designate a “public access officer” who must be certified to the FOAA according to the same certification program now required of various elected officials. The public access officer is charged with overseeing that governmental agency’s response to FOAA requests.

Labor, Commerce, Research & Economic Development

LD 1253 – An Act To Amend the Laws Governing the Enforcement of Statewide Uniform Building Codes. (Sponsored by Sen. Saviello of Franklin County.)

This bill makes several amendments to the laws governing the adoption, enforcement and implementation of the uniform statewide building code. The bill: (1) deletes an archaic requirement that inspections for the purpose of issuing an occupancy permit be conducted to ensure that a building is “safe from fire”; (2) authorizes a municipality to review the work of a third-party inspector for accuracy; (3) replaces outdated language regarding the local appeal process related to building inspection decisions; (4) specifies that enforcement actions undertaken by certain municipal employees with respect to building code violations must be authorized by the employing municipality; (5) narrows the prohibition on municipal building officials serving as third-party inspectors by allowing building officials to serve as third-party inspectors provided they are providing that service outside of their geographic jurisdiction as a building official; (6) directs the Technical Building Codes and Standards Board to determine where in Maine and with respect to which types of development the radon and internal air quality building codes should be applied; and (7) allows municipalities to adopt swimming pool safety standards, which are found in an appendix of the building code rules that has not been incorporated into the statewide uniform code.

LD 1264 – An Act To Improve the Energy Efficiency of Public Buildings and Create Jobs. (Sponsored by Sen. Bartlett of Cumberland County.)

This bill applies an energy efficiency standard to all buildings constructed by the State, counties, schools and municipalities. The standard is that the building must meet the greater of: (1) 20% above the energy efficiency standards in effect for commercial and institutional buildings according to the state’s uniform building and energy code (MUBEC); or (2) the green design building standard most closely related to the building and project type. With respect to municipal governments, this bill expressly overrides home rule authority.

Marine Resources

LD 1218 – An Act To Establish Recreational Flats Where Commercial Shellfish Harvesting Is Prohibited. (Sponsored by Rep. Chase of Wells; additional cosponsors.)

This bill establishes the potential to designate certain shellfish harvesting

flats as “recreational flats” and further directs the Commissioner of the Department of Marine Resources to adopt rules that serve to prohibit the harvesting of shellfish for commercial purposes on those recreational flats.

State & Local Government

LD 954 – An Act To Promote Rural Job Creation and Workforce Development. (Sponsored by Sen. Bartlett of Cumberland Cty; additional cosponsors.)

This bill requires the state, counties, and municipalities, as well as any charitable or educational institution that is supported in whole or in part by aid granted by the state or any municipality, to provide certain preferences and implement certain requirements with respect to the award of any contract for constructing, altering, repairing, furnishing or equipping public buildings or public works. All other bidding elements being equal, preference must be given to workers and bidders who are residents of Maine. Also, successful bidders on contracts greater than \$100,000 must be required to coordinate with workforce development programs in the region by participating in apprenticeship programs and programs that serve low income residents or people with disabilities. Also, successful bidders on those projects must make their best effort to fill at least 20% of jobs created with individuals who have been unemployed for longer than 6 months.

LD 987 – An Act Regarding the Sale of Surplus Land Owned by the Department of Transportation. (Sponsored by Sen. Bartlett of Cumberland Cty; additional cosponsors.)

This bill establishes guidelines for the sale of land owned by the Department of Transportation. The guidelines require the Department to: (1) determine and document the use and value of the property to abutters and the municipality; (2) notify abutters by mail, and residents of the municipality at large by placing a notice in a newspaper of general circulation at least 60 days prior to the sale; (3) receive public comments regarding the proposed sale; and (4) offer the municipalities the first right of refusal to purchase the land.

Taxation

LD 1138 – An Act To Prevent Unnecessary Expulsion of Landowners from the Maine Tree Growth Tax Law Program. (Sponsored by Rep. Knight of Livermore Falls; additional cosponsors.)

This bill amends the law enacted in 2010 regarding the formal notice a landowner with property enrolled in the Tree Growth tax program must be given on the approach of the 10-year anniversary of the landowner’s forest management plan. Under the compromise agreement enacted last year, the municipal assessor provides that formal notice within a 6 month window of the anniversary date, and in every case allows the landowner at least 120 days to provide the required update to the forest management plan. Under current law, if that update is still not provided in the required timeframe, the property is withdrawn from the Tree Growth program and the withdrawal penalties are applied. This bill does not allow the property to be withdrawn and the penalties applied if the deadline is still not adhered to. Instead, a maximum fine of \$100 would be applied for failing to meet the required deadline, and the landowner allowed an additional year to comply with the plan update requirement.

LD 1142 – An Act To Amend the Farm and Open Space Tax Law. (Sponsored by Rep. Knight of Livermore Falls; additional cosponsors.)

This bill requires all “farm related structures”, such as barns, farm stands, storage facilities and silos, that are located on property enrolled in the Farm and Open Space tax program to be assessed at their “current use” value rather than their “just value”.

LD 1401 – Resolution, Proposing an Amendment to the Constitution of Maine To Restrict Property Revaluations. (Sponsored by Sen. Collins of York Cty; additional cosponsors.)

This bill sends out to the voters a proposed change to Maine’s Constitution that would: (1) allow no changes in the assessed value of a property unless there is a change in ownership, a change in type of land use or an expansion of the land use to increase income; (2) limit any increase in assessed value related to the expansion of the land use to increase income to the investment amount of the improvements; (3) limit any change in assessed value to the greater of the property’s just value or the “appraised just value” of the taxable real property; (4) require the equalized just value

of a municipality to be set at 100% ; and (5) requires all changes in just value to subject to a real estate transfer tax, paid solely by the seller, and allocated to the municipality in which the property is located.

LD 1470 – An Act To Ensure Harvesting of Timber on Land Taxed under the Maine Tree Growth Tax Law. (Sponsored by Sen. Raye of Washington Cty; additional cosponsors.)

This “concept draft” bill proposes to amend the Tree Growth tax law in a going-forward way so that only property owners who are engaged in timber harvesting would be determined eligible to enroll in the Maine Tree Growth program.

Transportation

LD 1319 – An Act To Prohibit the Unwarranted Collection of Identifying Data of Motor Vehicles. (Sponsored by Rep. Shaw of Standish; additional cosponsors.)

This bill creates another section of law governing traffic surveillance cameras which prohibits a state, county or municipal employee from recording or retaining identifying data about a motor vehicle. A violation of this prohibition is punishable by a fine of up to \$100 for each violation. The prohibition does not apply to a state, county or municipal law enforcement agency if the recording or retention of identifying data is conducted to provide public safety, conduct criminal investigations or ensure compliance with local, state and federal laws.

LD 1367 – An Act To Restore Maine’s Secondary Roads. (Sponsored by Sen. Thomas of Somerset Cty; additional cosponsors.)

This bill establishes the Secondary Roads Fund, which is designed to finance capital improvements to state aid minor collector roads. The bill dedicates several revenue sources to capitalize the fund, including: (1) all funds received by the Department of Transportation (DOT) for damage to state property under DOT’s jurisdiction; (2) the proceeds from leasing, letting or renting highway properties to highway abutters for access purposes; (3) an amount equal to 24% of state funding for the Bureau of State Police; (4) 10% of the federal funds available to the DOT for federally-eligible projects; and (5) the lapsed balances in the Law Enforcement Agency Reimbursement Fund. The bill also creates a new authority for the DOT to authorize the placement of off-premises signs within the right-of-way of an

interstate highway, state highway or state aid highway. The fees collected for that newly allowed advertising would also be placed in the Secondary Roads Fund.

LD 1405 – An Act To Amend the Laws Restricting Advertising on Public Ways. (Sponsored by Rep. Keschl of Belgrade; additional cosponsors.)

This bill makes a number of changes to Maine’s “billboard law” and the laws governing “changeable signs”, including: (1) increasing the distance a sign may be erected from a principle structure of a business or point of interest from 1,000 feet to 2,500 feet; (2) allowing on-premise signs to be placed within 20 feet of the edge of certain public ways with more than 2 travel lanes if the signs are erected using approved breakaway mounting devices; (3) increasing the number of off-premise or “approach” signs a business or point of interest may have from 2 to 3 and allows those signs to be two-sided; (4) allowing business to have one changeable sign for each separate public way that the business abuts; (5) repealing an option in current law allowing municipalities to enact alternative standards for the allowed content of changeable signs; (6) allowing changeable signs to be erected adjacent to and for viewing from the interstate highway system; and (7) increasing the maximum height of a freestanding sign structure statewide from 25 feet to 35 feet above grade.

Veterans & Legal Affairs

LD 1300 – An Act To Create a New Liquor License, Provide Funding for Prevention of Underage Drinking and Provide Municipal Control over the Agency Liquor Store Application Process. (Sponsored by Sen. Craven of Androscoggin Cty; additional cosponsors.)

Current law limits the number of agency liquor stores that sell spirits based on the population of a municipality. This bill removes that statutory limitation and authorizes each municipality, through action of its governing body or by referendum, to establish a limit for agency liquor stores.

LEGISLATIVE HEARINGS

There will be no public hearings or work sessions the week of April 18-22