

## What's the Haps?

*[Note: This will be the last edition of the Legislative Bulletin for this session of the 125<sup>th</sup> Legislature. The most significant remaining issue for municipal government will be the details embedded in the two-year state budget regarding municipal revenue sharing, General Purpose Aid to Education (and the definition of the "Essential Programs and Services" school funding model) and the General Assistance welfare program. Through an "Action Alert," we will inform municipal officials of that information as it becomes available early next week. A complete analysis of all municipally related legislation enacted by this Legislature will be provided in the July edition of the Maine Townsman.]*

As the Appropriations Committee continued to finalize its recommended 2012-2013 biennial budget this week, the members of the House and Senate were in their seats late into each night making final decisions on the many bills that remained on the table. The push for the Legislature to complete its work is governed by two different deadlines. The first is a financial deadline, as appropriated resources to pay members of the Legislature for certain expenses ran out this Wednesday. The second is the statutory adjournment date, which is June 15.

In the last few weeks, the Legislature has debated many divisive issues ranging from expansion of gambling opportunities to the rights of unborn children. The Legislature has also debated and decided several issues of municipal concern, including those impacting the conduct of federal, state and local elections, an amendment to the Maine Tort Claims Act, and changes to the state's uniform

building code, commonly referred to as MUBEC (Maine Uniform Building and Energy Code).

What follows is a description of several bills of municipal interest that were debated during the last week. More detailed information about these bills can be found in previous editions of the *Legislative Bulletin* as well as on MMA's "LD List", which is constantly updated to reflect legislative decision-making. Both of these resources are found at MMA's website <http://www.memun.org/public/MMA/svc/SFR/default.htm>.

**Restriction of Firearms.** The Legislature debated two bills this week regarding the possession of firearms in government buildings. One bill, LD 932, *An Act to Allow Concealed Weapons in the State House*, would relax the existing firearms prohibition by enabling permitted persons to carry concealed firearms in the State Capitol complex. The other bill, LD 578, *An Act to Allow Municipalities to Restrict the Possession*

*of Firearms in Certain Circumstances*, would enable town and city councils or the town meeting assemblies to adopt ordinances that restrict the carrying of firearms in the municipal "capitol building" areas. See the April 22 *Legislative Bulletin* for details.

Although a majority of the Criminal Justice Committee supported LD 932 (enabling the possession of firearms in the state capitol) and opposed LD 578 (enabling municipal legislative bodies to restrict firearms in their places of legislative assembly), recent firearms-related incidents seemed to have helped focus public opinion on these issues. With respect to LD 932, the Legislature unanimously determined that measures, such as an increased security presence, were more appropriate to protect persons engaging in Capitol area activities than allowing guns into the State House.

However, when it came to empowering municipal legislative bodies with

*(continued on page 2)*

## Correction

Last week's edition of the *Legislative Bulletin* provided a description of the public hearing on LD 309, *An Act to Make Voluntary Membership in a Public Employee Labor Organization in the State*. The public hearing began at 4:30 p.m. on Thursday, June 2, and went late into the evening. In describing the public hearing, the *Bulletin* article pointed out that it finally opened up to members of the general public who were limited to speak for no more than 3 minutes, and that after 9 p.m. the "three-minute" rule became

a "two-minute" rule.

The Chairs of the LCRED Committee, Rep. Kerri Prescott (Topsham) and Sen. Chris Rector (Knox Cty.) pointed out to MMA that the Committee never did employ a two-minute rule. Although it was announced that the Committee would consider moving to the two-minute rule after 9 p.m., the implementation of the two-minute rule never occurred in order to make sure all members of the general public had the same opportunity to testify, regardless of when they got to the podium.

## Haps (cont'd)

decision making authority to restrict the possession of weapons in municipal government buildings, concerns over the right to bear arms suddenly materialized among some members of the Senate. The opponents of LD 578 were concerned that allowing town meetings or town/city councils to adopt ordinances restricting firearms would prevent law abiding citizens from protecting themselves from persons intent on harming others. The proponents, who placed faith in the men and women who make up the municipal legislative bodies to determine what is best for their individual communities, carried the day as the Senate supported the measure by a vote of 21 to 13. LD 578 is currently tabled in the House.

**Voter Reform.** The Veterans and Legal Affairs Committee held public hearings and work sessions on several bills designed to restructure the voter registration and absentee balloting processes. Some bills sought to eliminate same day voter registration, others to restrict the use of the absentee balloting process and still other bills sought to require voter proof of identification before voting. After the last ballot was cast, two bills remained standing, one of which was enacted this week. Details on these bills can be found in the Feb. 18 and May 27 editions of the *Legislative Bulletin*.

LD 199, *An Act To Strengthen Maine's Election Laws by Requiring Photograph Identification for the Purpose of Voting*, would require all voters to show a state or federally sufficient

form of photo identification before being authorized to cast a ballot in a federal, state or local election. The bill was narrowly supported in the House by a margin of 75 to 69 and is currently tabled in the Senate.

LD 1376, *An Act To Preserve the Integrity of the Voter Registration and Election Process*, 1) Eliminates same day voter registration and requires all voters to register at least 3 business days before the election; 2) Narrows the reasons for which a person can cast an absentee ballot in the three business days before an election; and 3) Creates an entitlement to cast a "provisional ballot" for any one whose name does not appear on the official voter registration list but who wishes to cast a ballot. The provisional ballot votes would ultimately need to be processed by the election clerks after the voter's eligibility to vote in each case is determined.

The Maine Town and City Clerks' Association supported the bill as a way to relieve the pressures the ever growing use of the absentee ballot process has placed on municipal clerk workload in the days leading into the election. MMA opposed the bill because its Legislative Policy Committee (LPC) members were concerned that the elimination of same day voter registration would disenfranchise voters. Rather than completely restructure the registration process, MMA's LPC believes something needs to be done to address the absentee voting process. From the perspective of MMA's Policy Committee, the focus of LD 1376 is misplaced.

Among the members of the Legislature, the debate was similar. Those supporting the measure believe that it would relieve municipal workload, while opponents expressed concerns that the bill would disenfranchise voters. Although this measure is working its way to enactment, support for the repeal of same day voter registration is a razor-thin majority as the initiative was supported in the House by a margin of 74 to 70, and in the Senate by a vote of 18 to 17.

**Building Code.** Maine's Uniform Building and Energy Code (MUBEC) was also the target of many proposals to reform, restructure or tweak the existing law. The proposals ranged in scope from

abolishing MUBEC to making minor but practical amendments to the state code. Two bills, LD 1253, *An Act To Amend the Laws Governing the Enforcement of Statewide Uniform Building Codes* and LD 1416, *An Act To Provide Options to Municipalities Concerning the Maine Uniform Building and Energy Code*, survived the process.

As the dust settled, the Legislature enacted both bills. As described in detail in the May 13 and 20 editions of the *Legislative Bulletin*, the members of two separate legislative committees had different ideas on how to improve the statewide building code.

The Labor, Commerce, Research and Economic Development Committee (LCRED) unanimously endorsed LD 1253. The bill, which was initiated by MMA, makes several changes to MUBEC that could be characterized as "fix-up" or housekeeping in nature. This bill was enacted by both the House and the Senate.

A majority of the State and Local Government Committee, however, supported LD 1416, which fundamentally restructures how MUBEC would be implemented in towns and cities with populations of 4,000 or less. Under the terms of LD 1416, those communities could either adopt MUBEC and take on its enforcement, or the building code would not apply in that community as a matter of law. The members of House supported LD 1416 by a margin of 76-69 and the members of the Senate supported the bill by a margin of 19-15.

Presumably, further steps will be taken to reconcile the adoption of LD 1253 and LD 1416, whose terms are fundamentally incompatible.

**"Fair Share."** After the LCRED Committee held a public hearing last week on LD 309, *An Act to Make Voluntary Membership in a Public Employee Labor Organization in the State*, a work session was scheduled for early this week.

As detailed in the previous week's *Legislative Bulletin*, the amended version of LD 309 focuses on the so-called "fair-share" system at the State government level by making a non-union employee's contribution to a "fair share" payment to the union entirely voluntary, and prohibits any requirement that those

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

## Haps (cont'd)

payments must be made as a condition of employment. The bill also allows an employer to deduct the “fair share” payment from an employee’s paycheck only if the employee has agreed in writing to that deduction. On the flip side, the amended bill provides that the state employee union would no longer be required to represent a non-union employee in a grievance or discipline-related dispute if the employee is not paying the service fee.

Public attendees were anxious as to what would transpire at the work session. Although nowhere near the turnout for the public hearing, the Committee room was at capacity because attendees wanted to witness firsthand what would happen with this controversial bill. The work session was as short in duration as the public hearing was long.

After initial introductions, the Committee identified some stumbling blocks with respect to enacting the bill this year. These issues included: (a) Questions that surfaced about the legislation that are still unanswered; (b) Various iterations of language changes with this bill; (c) Confusion during the public hearing concerning the original bill and the amended bill; and (d) A need for additional time to review all the background information on this issue that the Committee’s analyst provided to the members. Because of these factors, the LCRED Committee voted 12 to 1 to carry the bill over until January 2012.

### Miscellaneous legislation.

LD 1039, *Resolve, To Create a Working Group To Make Recommendations To Improve the Efficiency, Accountability and Proper Administration of Municipal General Assistance Programs*, was finally enacted by the Legislature. As enacted, a 10-member working group is tasked with studying the way in which municipalities administer the General Assistance program and the extent to which GA applicants are appropriately utilizing resources. The specifics of the study were detailed in the April 29 edition of the *Legislative Bulletin*.

However, before this measure can be sent to the Governor for his approval it must be funded. As amended, LD

1039 includes a \$53,000 fiscal note to cover state expenses required to staff the working group. The bill now sits on the Special Appropriations Table, with the 70-plus other bills that need to be funded. It is now up to the Appropriations Committee to determine whether or not this bill makes the priority list given limited resources.

LD 1533, *An Act To Provide for a Method To Remove an Elected Municipal Official*, was enacted as emergency legislation, making the law effective the day it is signed by the Governor. The bill provides a process in state statutes for recalling a municipal officer who has been convicted of a felony crime against the municipality. For additional details, see the May 13 edition of the *Bulletin*.

LD 1465, *An Act To Amend the Laws Governing Freedom of Access*, was carried over until the Second Session by the Judiciary Committee. This “Right to Know” bill would impose extraordinary additional requirements on municipalities to respond immediately to a Freedom of Information request and provide the requested documents in the precise form and format requested. Please refer to the April 29 and May 13 editions of the *Legislative Bulletin* for more details. This action by the Committee was necessitated by an interest in having the Right to Know Advisory Committee (a brief description of this advisory board is on page 6 of the May 13 Legislative Bulletin) review the bill over the summer and report its findings back to the Judiciary Committee next January.

**The Graveyard.** Although not appreciated by all, particularly those on the losing side of an issue, the jargon of the legislative process includes the use of the terms “killed by Committee” and “ordered placed on the dead files” to describe bills that are not supported at the committee or legislative levels. Over the last week, 3 bills of municipal interest were sent to the dead files. While it is not always the case, the Legislature’s decision to refrain from enacting certain bills sometimes benefits local government.

LD 1256, *An Act Concerning Tort Claims and Governmental Entities*, received its fair share of attention this week. Please refer to the June 3 edition

of the *Legislative Bulletin* to review the negative impacts this bill would have on municipalities, if enacted. Also, information regarding the bill’s public hearing and work session can be found in the April 8 and May 6 editions, respectively. Ultimately, the Senate and House agreed to disagree. The Senate voted to support the majority report of “ought to pass as amended” and the House voted (overwhelmingly) to support the minority report of “ought not to pass.” This deadlock killed the bill.

LD 191, *An Act To Define Lienholder Rights under the Maine Tree Growth Tax Law*, was a bill that would require municipal assessors to send out additional mailed notices to the financial institutions and other “lienholders” who hold mortgages on property in the Tree Growth tax program in certain circumstances. When LD 191 hit the House calendar, MMA urged municipal officials to contact their legislators about the mandate aspects of the bill. LD 191 was voted “ought not to pass” in both the House and the Senate.

LD 250, *An Act To Permit Tuition Subsidies by Municipalities*, was a bill that authorized municipalities to appropriate property tax resources for the purpose of reimbursing parents who make tuition payments to send their children to religious schools. When LD 250 hit the House calendar, MMA urged municipal officials to contact their legislators about how LD 250 could stretch the capacity of municipalities to fund education programs to the breaking point. LD 250 was voted “ought not to pass” in both the House and the Senate.