Legislative BULLETIN
MAINE MUNICIPAL ASSOCIATION
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What Appetite for a Jobs Bond?

Two "jobs bond" proposals will be formally presented to the Appropriations Committee on Monday, March 29th. One is priced at $99 million and the other at $79 million. The idea behind both is that the jobs bond would be presented to the voters for their approval in just 10 weeks, on the June 8th Primary election day.

This article compares and contrasts the two jobs bond proposals. But first, some background.

The last bond package was developed by the Legislature in the spring of 2009 and proposed borrowing a total of $150 million, divided into three separate packages to go out to the voters in November 2009, June 2010 and November 2010. Here is a brief summary of those three proposals.

November 3, 2009. This $71.25 million transportation bond was adopted by the voters.

June 8, 2010. As advanced by the Legislature a year ago, there will be three separate bond ballots presented to the voters in June totaling $68.75 million in total borrowing.

• A $25 million economic development package, including $8 million to redevelop the Brunswick Naval Air Station site; $3.5 million for the "Communities for Maine's Future" program; $3 million for research and development investments; $5 million for the Small Enterprise Growth Fund; $3 million for an economic recovery loan program; $1 million to provide grants for food processing and lumbering industries; and $1.5 million for acquiring historic properties.

• A $10.25 million environmental bond, with $3.4 million designated for the Drinking Water revolving loan fund program, $3 million for the wastewater revolving loan fund program, $600,000 for wastewater facility grants, $1 million for the small community septic tank abatement program, $1 million for ag-

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Culvert Rules - Update

A significant amendment to LD 1725, which seeks to change the standards for culvert repair and maintenance has been developed by the Departments of Environmental Protection and Transportation. LD 1725 is the "culvert bill" which adopts a change to Chapter 305 of the rules of the Department of Environmental Protection (DEP). Please see the February 5th and 19th *Legislative Bulletins* for descriptions of this issue in detail.

MMA strongly opposed passage of these rules as drafted.

LD 1725 is an outgrowth of a law enacted last session (PL 2009, c. 460) which required the DEP to undertake rulemaking to amend its Permit By Rule standards "to require municipalities to achieve natural stream flow when they are repairing or maintaining roads or stream crossings." The rule as initially developed by the DEP is objectionable because the permit-by-rule standards that would have to be satisfied can be very expensive.

An amended version of LD 1725 has been proposed by the DEP and is supported by the Department of Transportation, which is also bound by the rule. The amended version of LD 1725 would do the following:

1.) The rule would go into effect immediately for "new crossings" only. We understand this to mean that culverts which are to be installed for the first time for new roads will need to achieve the standards in the current rule.

2.) For all other culvert repair and maintenance work, the DEP will start the rulemaking process over again in order to give concerned parties, including municipalities, an opportunity to provide more input on the rule and propose further changes. The rule will be brought back to the 125th Legislature next January.

3.) Finally, the amendment may include a provision to explore grant funding opportunities that proponents of the bill have identified.

MMA is appreciative of this proposal and can support it.

There is an issue which is not yet resolved that will significantly impact the rulemaking process. The need for the culvert bill is often described as the need for better "fish passage." That is, the goal of the culvert installation standards is to allow fish to pass through the culvert and propagate throughout their natural habitat.

However, the statute adopted last year speaks not only to fish passage but also seeks to obtain "natural stream flow" as a goal. The regulatory attempts to achieve this goal are creating the most difficulty, not those associated with "fish passage." So, a threshold task for DEP and other interested parties is understanding the policy goal the revised rule must seek to accomplish.

JOBS BOND (cont'd)

ricultural facility pollution protection, and $1.25 million for the uncontrolled sites/overboard discharge program.

• A $33.5 million capital improvement package, with $12 million for a program to weatherize low and middle income households and small businesses, $15.5 million for capital upgrades at the University and Community College campuses, and $6 million for research and development investments targeted to ocean wind energy demonstration sites.

November 2, 2010. A $10 million bond for the Land for Maine's Future program.

The current proposals. The first jobs bond proposal printed as a bill (LD 1816) is a $99 million bond package sponsored by Senate President Libby Mitchell (Kennebec Cty.). The other jobs bond proposal has just been printed as LD 1826 and is being advanced by Governor Baldacci.

The public hearings on the jobs bond proposals are scheduled for Monday, March 29th at 1:00 p.m. The work sessions are scheduled for Wednesday, March 31st, also at 1:00 p.m. Because bond proposals cannot be successfully developed and moved out to the voters without the acquiescence of both political parties in both chambers of the State House as well as the Governor, it is hard to predict how the final jobs bond package will shape up.

Legislative Bulletin

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Editorial Staff: Geoffrey Herman, Kate Dufour, Jeff Austin, and Laura Veilleux of the State & Federal Relations staff.

Purpose of Borrowing	LD 1816 Senator Mitchell's proposal	LD 1826 Governor Baldacci's proposal
General highway reconstruction and paving	$47.5 million	$28 million
Purchase/upgrade Montreal, Maine and Atlantic Railroad track in Aroostook County	$20 million	$17 million
Railroad connector to Lewiston/Auburn	$5 million	$5 million
Ocean Gateway Deep Water Pier in Portland		$8 million
Municipal highway challenge grant program		$3 million
Small Harbor Improvement challenge grant program		$1 million
Wastewater revolving loan fund	$3.05 million	$3.2 million*
Drinking water revolving loan fund	$2.12 million	$2 million*
Wastewater treatment facility upgrade grants in Limestone, St. Agatha and Machias		$1.8 million**
K-12 and Higher Education facility energy retrofits	$20 million	
Program to provide large companies with energy efficiency improvements		$5 million*
University of ME, component manufacturing for wind energy generation		$5 million*
Underground oil tank remediation	$500,000	
Culvert replacement for fish passage	$500,000	
Overboard discharge assistance program	$500,000	
Total	**$99 million**	**$79 million**

*LD 1826 proposes to amend the bond proposals already slated to go before the voters on June 8, 2010 to increase the appropriate components by these designated amounts.

**Although the $1.8 million is identified in LD 1826 for the purpose of further capitalizing the "Small Community Program", which helps finance necessary repairs to residential septic systems, the intention of this allocation was to finance the Construction Grant program administered by DEP which provides grants for wastewater treatment plant renovations when the absence of the grant would trigger local rate increases that would exceed certain levels.

Cultivating the People's Medical Use of Marijuana Law

On Thursday last week, the Health and Human Services Committee completed its work on LD 1811, *An Act To Amend the Maine Medical Marijuana Act*, by unanimously supporting an amended version of the bill. The overarching purpose of LD 1811 is to enact the recommendations of a task force that was formed to help implement the medical marijuana law adopted by the voters at the November 2009 referendum election.

Since the amended bill has not yet been drafted, our analysis of LD 1811 is based on the documents prepared by the Committee's staff. A more detailed description of the law, if enacted by the entire Legislature, will be published in this spring's legislative wrap-up edition of the *Maine Townsman*.

The issue of most importance to municipalities is the way in which registered patients will obtain the authorized marijuana. Essentially, the qualifying patient can either: 1) elect to grow their own; 2) designate a caregiver to grow on their behalf; or 3) designate a nonprofit dispensary to provide the marijuana.

Home-based Operations. Registered patients can cultivate up to six marijuana plants. The plants must be kept in an enclosed, locked facility unless they are being transported because the patient is moving or taking the plants to the patient's own property for purposes of cultivation.

Primary Caregiver Operations. Registered patients can designate cultivation and production responsibilities to a state-registered primary caregiver. Caregivers can provide assistance to no more than 5 registered patients and must meet the same plant limitations and security measures placed on home growers.

Registered Nonprofit Dispensaries. As amended by the Committee, by July 1, 2010 the Department of Health and Human Services is required to adopt rules for determining the application and renewal processes for nonprofit dispensaries. The amended bill limits the number and location of registered nonprofit dispensaries to no more than one dispensary in each of the state's eight public health regions. Although the number of dispensaries is set at eight for now, after the first full year of implementation the Department is authorized by LD 1811 to adjust the number and location of the dispensaries based on the first year's experience. Nonprofit dispensaries are prohibited from contracting out the cultivation of the marijuana. As part of the law adopted by the voters, municipalities are authorized to regulate the dispensaries.

The amended bill clearly addresses one municipal concern with the dispensary legislation, and provides some help with another.

Confidentiality. As amended by the Committee, the medical marijuana law is clarified to enable municipalities to appropriately regulate the location and siting of medical marijuana dispensaries without having to dance around confidentiality issues.

As adopted by the voters, the law includes provisions ensuring the confidentiality of a qualifying patient's medical information. As a result, all of the information a patient provides in the process of obtaining the required state-issued identification card must be considered confidential. As originally enacted, that confidentiality standard also applied to the physical address of the nonprofit dispensary from where the patient would obtain the marijuana.

The creation of that confidentiality standard raised questions as to its reach. Under the medical marijuana law, dispensaries are subject to local zoning and land use regulation, a process which is entirely open to public procedures, public notice and the acceptance of input from the general public with regard to the location of specific types of land uses within the community. The municipal concern was that the confidentiality provisions of the Act were not sufficiently integrated with the openness of the land use regulatory procedures expressly authorized in that same law.

Hearing the municipal concern as well as the confidentiality issues raised by other interested parties, the Health and Human Services Committee supported amending the bill to clarify that with the exception of patient, caregiver and physician identification data, all other dispensary information (i.e., location, oversight board membership, etc.) is not considered confidential.

Local Control Over Dispensaries. Municipal officials also raised a concern with the amount of local control provided to municipalities in the regulation of medical marijuana dispensaries. According to the law adopted by the voters, municipalities are expressly authorized through general zoning authority to regulate the number and location of dispensaries. For some municipal officials, the zoning authority is not strong enough, and there was a municipal interest in having more regulatory discretion over medical marijuana dispensaries.

The issue for municipalities is public safety, the provision of an appropriate level of law enforcement, and the possibility of a proliferation of small, low-profile dispensaries generating complaints and requiring attention. There are costs to the municipality for ensuring that the dispensaries, patients, and the community at-large are adequately protected. Municipal officials want to ensure that the property taxpayers, who may have to fund larger public safety budgets as a direct result of the location of these dispensaries in their communities, have full say on how they will be regulated.

To address this concern, several municipal officials advocated for an amendment to the law that would require pharmacies to dispense the medication. These municipal officials believe that well trained pharmacists and established pharmacy operations would be the more appropriate dispensaries of this medication.

Although the Committee amendment

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Telecommunications Tax Update: Yet Another "Resolve"

Legislative "resolves" are like New Year's resolutions; although created angelically, they are the devil to implement. A "resolve" is not like a regular bill. A resolve is directive, often to a state agency, to study an issue and make recommendations for some future legislature to consider. An optimist thinks a resolve represents a thoughtful first step in dealing with an acknowledged issue that deserves attention. A realist equates a resolve with punting in a football game. A pessimist recognizes a resolve as just another way to kill a bill.

Thus far this session in the Taxation Committee room, several resolves have been reported out with municipal implications.

There has been a "resolve" directing Maine Revenue Services to put together a working group to develop recommendations about how and to what extent the $6,000 veterans' property tax exemption should be increased.

By means of a letter from the Tax Committee chairs (which is even weaker than a resolve) Maine Revenue Services has also been directed to put together a working group to address certain issues identified as problems in the Tree Growth program.

The most recent resolve has already been developed and approved by the Taxation Committee, but is just now coming out as a bill. LD 1823, *Resolve, To Review and Update the Telecommunications Taxation Laws*, charges Maine Revenue Services with convening a working group to review options for modernizing the telecommunications taxation laws.

Because municipalities could be directly affected by changes to the telecommunications tax code, several previous editions of the *Legislative Bulletin* have given background to the issue. In short, the telecommunications industry is rapidly transforming. Television, telephone and Internet services are being provided -- some by landline systems and some wirelessly -- by an expanding group of companies. These companies are taxed in a variety of ways. The state imposes a tax on the personal property of companies providing "interactive" or "two-way" telecommunications services. The municipalities impose a tax on the personal property of "one-way" cable t.v. providers. Although that's the way the law is set up, there is no longer any bright line between "one-way" and "interactive" telecommunications services. The state also imposes a "service provider" tax on all telecommunications providers. The result is a multi-layered system of taxation which is perceived as inequitable, especially by the providers who rely on land-line infrastructure, which is more heavily exposed to property taxation.

A particular irritant in the system is that the state's property tax rate on the "interactive" telecommunications property is 22 mills, and the municipal tax rate on almost identical property is whatever the local mill rate is where the property is located, which is typically less than 22 mills, especially at "full value".

This issue has been hashed around by the Taxation Committee for years without any result. The Committee tried to tackle the problem in 2009 as the biennial state budget was developed, but nothing came of it. It was picked up again during this 2010 legislative session as well. The Committee even put forward a proposal toward the end of the session that modernized the system and created greater equity, including by making all telecommunications personal property subject to municipal taxation. This only makes sense because telephone personal property is typically located in the municipal right-of-way. After a public hearing where the wireless providers cried foul, the Committee bill was quickly pulled-back and reworked into this resolve.

Specifically, the resolve calls for Maine Revenue Services to convene a working group to review the current telecommunications tax structure and make recommendations for modernizing the applicable tax codes. The working group is to include MMA, incumbent local exchange carriers, newer competitive phone services such as the wireless carriers, and the cable industry. The charge to the working group is to review options for updating the telecommunications tax law in a way that is revenue neutral for the state and provides equitable tax treatment of the telecommunications providers. Maine Revenue Services must report the recommendations back to the Legislature by January 17, 2011.

Committee Rejects Mandatory Sick Leave Legislation

On Monday, the Labor Committee gave a 10-2 "ought not to pass" report on LD 1665**,** *An Act to Prevent the Spread of H1N1*. The bill was sponsored by Senate President, Elizabeth Mitchell (Kennebec Cty.).

In its original form, LD 1665 required employers, including municipalities, to provide a certain amount of paid sick leave for its employees. [A description can be found in the January 22nd *Legislative Bulletin*.]

Two weeks ago, an amended version of the bill was submitted by the sponsor. This amendment would provide 5 days of unpaid sick leave per year to all employees. The primary goal of this amended version is to protect workers from being fired in response to taking an unauthorized sick day. [A description of the amended version of LD 1665 can be found in the March 12th *Legislative Bulletin*.]

MMA appreciates that the sponsor was flexible in achieving her policy goal and was responsive to some of the critics of the legislation, including municipalities. However, even in its amended form, municipal officials could not support the legislation; primarily because there was no evidence that municipal employers are actually firing otherwise satisfactory workers for taking a sick day.

Utilities and Energy Committee Amends and Advances PSAP Bill

On Monday, the Utilities and Energy Committee unanimously voted to support an amended version of LD 1813, *An Act to Implement the Recommendations of the Office of Program Evaluation and Government Accountability Regarding Communications Services*. The bill was a late-filed bill submitted by Representative Jon Hinck (Portland) on behalf of the Government Oversight Committee.

LD 1813 deals with Public Safety Answering Points (PSAPs). PSAPs answer E-9-1-1 emergency calls and in some cases dispatch the appropriate responders.

There are 26 PSAPs in Maine, 4 of which are operated by the Department of Public Safety, 13 are operated by counties/sheriffs and 9 are operated by municipalities.

The Office of Program Evaluation and Government Accountability (OPEGA) conducted a review of the state-run PSAP in Kennebec County known as the Central Maine Communications Center (CMRCC). This is one of two reports on the issue of PSAPs. The other was conducted by a national consulting firm on behalf of the Public Utilities Commission (PUC).

Both reports were briefly described in the February 26th *Legislative Bulletin* and each can be found on the MMA website at: http://www.memun.org/public/MMA/svc/SFR/default.htm

LD 1813 deals with two issues raised by the OPEGA report: the uniform quality of dispatching services, and the rates PSAPs charge their municipal clients.

The Quality of Dispatching Services. There are three kinds of emergency calls that come into a PSAP: medical, fire or police/public safety.

If the call is a medical emergency (Emergency Medical Dispatch or EMD), the call taker has a standardized protocol to use. The Legislature mandated the utilization of a standardized protocol in 2005. In essence, the EMD protocol assists the PSAP call taker in gathering from the caller the nature of the medical emergency and then, with assistance from software or scripted cards, providing the caller with instructions on how to treat the victim until an ambulance arrives. The statute requires training and continuing education for PSAP call takers in this area.

There is no single, statewide protocol for police or fire emergencies. This isn't to say that PSAPs don't have policies and protocols or that call takers don't receive training. It's just that there is no single standard.

As part of its review, OPEGA staff listened to the emergency calls received on two different days at the CMRCC. OPEGA staff felt that calls were handled inconsistently and in some cases unsatisfactorily. As printed, LD 1813 required the establishment of uniform standards and protocols for emergency dispatching by the PUC and the creation of compliance and quality assurance programs. LD 1813 also proposed funding training programs and related materials for fire and police dispatch services similar to the Emergency Medical Dispatch training regime.

At the public hearing, the PUC noted that this is a very expensive process and would cost at least $2.4 million spread over two years to fully implement. The money would cover the costs associated with purchasing software and providing 6 days of training for approximately 700 PSAP call takers. It would not cover the costs of the PSAPs to "back-fill" the staff time of call takers while at training.

The Utilities Committee decided not to pursue this course, but instead took two alternative steps.

First, the Committee decided to fund two supervisory positions at CMRCC, the state-operated PSAP in Augusta. It is believed these supervisors will be able to improve the consistency and quality of the call taking at CMRCC.

Second, the Committee decided to fund, on a temporary 2-year contract basis, roving auditors that would review the call-taking practices at all 26 PSAPs in Maine. While the details of what these auditors will do is unclear, the basic policy goal is to ensure that the PSAPs have some internal policies and protocols for public safety call-taking and that these policies and protocols are followed. Furthermore, as roving auditors, it is hoped that they can cross-pollinate the PSAPs with the best practices and protocols employed in Maine's PSAPs. This way, without mandates, it is hoped that dispatching can be improved and modestly standardized.

The funding for all four of these positions would come from the E-9-1-1 surcharge imposed on all telephone users' phone bills.

That phone-bill surcharge has its own dramatic history. It is a monthly surcharge that has bounced between the range of 30-cents to 50-cents (per month, per phone line) for the past several years. At these levels, it generates several million dollars annually. The surcharge revenue is used primarily to pay the phone bill on the entire E-9-1-1 system. In FY 2010, the PUC paid FairPoint Communications approximately $6.7 million for the operation of the E-9-1-1 system; this represented the fourth year in a five-year $32 million contract. An additional $3 million went to related PUC costs in FY 2010.

There has recently been a surplus in the E-9-1-1 fund. In 2007 and 2008, the Legislature transferred over $6.3 million from the E-9-1-1 fund to the state's General Fund. This prompted the Legislature to reduce the surcharge in an attempt to prevent such large surpluses from accumulating. Between the legislative transfers and the cut in the surcharge rate, the surplus in the E-9-1-1 fund has dropped from over $9 million to around $2 million today.

Last session, the Legislature voted to restore the surcharge to 52-cents. On Monday, the Utilities Committee voted to reduce the surcharge down to 45-cents.

The proposal to use the E-9-1-1

(continued on page 6)

PSAP (cont'd)

fund to cover the costs of two personnel exclusively dedicated to the state-run PSAP in Augusta (CMRCC) received some push-back from two county-based PSAPs. The concern is that the E-9-1-1 fund receives revenues from telephone users statewide and that if this fund is going to be available to PSAPs for personnel it should be available to all PSAPs. Otherwise, statewide taxpayers are being forced to subsidize a PSAP from which they don't receive services.

The Rates State PSAPs Charge Municipal Clients. The four state-run PSAPs are located in Houlton, Orono, Augusta and Gray. These PSAPs were originally established to serve state agencies only, primarily the State Police, but also the Department of Inland Fisheries and Wildlife Game Wardens and other similar positions in state agencies.

However, when the Legislature consolidated PSAPs five years ago, over 100 municipalities, primarily in Aroostook, Kennebec and York counties, became clients of these state-run PSAPs.

In exchange for providing PSAP services to these municipalities, the state was allowed to charge these municipalities a fee. These fees were a contentious issue and ultimately the Legislature gave the PUC the responsibility to establish these fees through an adjudicatory process.

In 2008, the state proposed a fee increase to municipalities of 64%. The Maine Municipal Association contested the fee and it was subsequently reduced (to a 46% increase). This process was informative and modestly helpful to municipalities. But it was also difficult and expensive.

For this reason, OPEGA proposes to relocate the rate-setting process from the PUC to a group called the Maine Communications System Policy Board. This Policy Board is an adjunct to the Bureau of Consolidated Emergency Communications within the Department of Public Safety.

The Policy Board has 15 members appointed by the Governor including 5 state positions, 3 municipal representatives, a county representative, a police chief, fire chief, an emergency response representative, a county sheriff, a public member and a representative of an advisory board that is an adjunct to the PUC.

It should be noted that the Board's primary "rate-setting" responsibility will be in allocating costs to the users and not in approving or excluding certain proposed expenditures from the Department of Public Safety (DPS). The PUC, which currently has rate-setting responsibility, has the authority to exclude certain proposed expenditures (and did exclude certain expenditures in the 2008 rate case).

OPEGA felt that establishing the DPS budget is a legislative function and the Legislature should be exclusively responsible for establishing the PSAP budget for the four state-run PSAPs and for including or excluding a particular expenditure.

If this Policy Board gets rate-setting jurisdiction it will not go through the process of including or excluding costs, but will simply take the municipally-calculated share of the budget for the four state-operated PSAPs as approved by the Legislature and determine how to allocate those costs among the participating municipalities.

The three municipal seats on the Policy Board have been vacant for some time. The statute creating these seats is somewhat restrictive and so the Utilities Committee is proposing to remove these restrictions and to utilize a statewide association of municipalities to help find volunteers as is done with the county, fire, police and emergency response representatives. Serving on this Policy Board should be a more attractive assignment to municipal officials now that the Board now has a significant hand in determining the rates to be paid.

However, in response to the significant increase in rates at the state-run PSAPs, most of the municipal clients have chosen to leave these PSAPs and contract with county or municipally operated PSAPs instead. As such, there are far fewer municipalities with a direct interest in the rates that will be established by the Policy Board.

Utilities Committee Reports Out Second PSAP Bill

As noted in the main article, there were two reports published this year on PSAPs. The first was by OPEGA and the result is LD 1813. The second was by a technology consulting group called L.R. Kimball. This second report focused on the entire PSAP system statewide. At the second work session on LD 1813, the Utilities and Energy Committee produced and passed a second PSAP bill directing the Public Utilities Commission to propose a plan to achieve some of the Kimball Report recommendations.

The bill, which has yet to be printed as a LD, would do three things: First, it would legislatively sanction the Kimball recommendation to further consolidate PSAPs from their current number of 26. Second, it directs the PUC to produce a consolidation plan to reduce the number of PSAPs to between 15-17. Third, it directs the PUC to examine and discuss the various issues surrounding consolidation such as the status of dispatch-only facilities, the routing of wireless calls to more than just state-run PSAPs, so-called "rate-shopping" by municipalities seeking to avoid the state-run fees for PSAP service, and incentives to consolidate rather than penalties or mandates.

The PUC's report must be submitted to the Legislature by November 1, 2010.

Ocean Energy Task Force Legislation - Update

The Utilities Committee has held two work sessions on LD 1810 "*An Act to Implement the Recommendations of the Governor's Ocean Energy Task Force*" which is a Governor's bill. This 36-page bill was heard by the Utilities and Energy Committee on March 11.

LD 1810 creates a comprehensive regulatory framework for the development of off-shore wind power and tidal power projects. It is similar to a bill enacted two years ago for land-based wind power projects. The legislation followed a report by the Governor's Ocean Energy Task Force. Please see the March 12th *Legislative Bulletin* for a description of the bill as drafted. The report of the Task Force is located on the State Planning Office website (http://www.maine.gov/spo/specialprojects/OETF/Documents/finalreport_123109.pdf)

MMA made several observations about the bill at the public hearing some of which appear to have been satisfactorily addressed.

First, the bill attempted to direct municipalities to encourage ocean-based windmills. While several municipalities undoubtedly do, it is inappropriate for the Legislature to direct that municipalities adopt a certain attitude toward a particular type of private, for-profit development.

These provisions have been amended to remove references to municipalities.

Second, the bill appeared to create property tax exemptions for turbines outside of municipal jurisdiction and retain property taxation for equipment within municipal boundaries, either located on uplands or submerged lands. MMA, and the Taxation Committee, asked that the Taxation Committee review this portion of the bill. In addition, Maine Revenue Services raised several specific concerns with the bill as drafted.

The taxation provisions will be removed from this bill. Instead, LD 1810 directs Maine Revenue Services to review the issues and report back to both the Taxation and Utilities Committees next year regarding exemptions for the personal property associated with ocean energy projects.

Finally, the bill as drafted makes some reference to municipal land-use controls over ocean-energy projects. The amended version of LD 1810 will include a provision that municipalities may not expressly prohibit ocean-energy projects via exclusionary zoning ordinances or other land use provisions. That is, a town can't ban the presence of these windmills just as a town couldn't enforce an outright ban on telecommunications towers.

Short of an outright ban, the issue of how a municipality may apply land-use regulations to ocean-based facilities will need to be discussed further by interested parties this year. The original bill sought to circumscribe any municipal regulation of these projects but the amended version will be silent on this issue.

A threshold challenge for a municipality will be to determine the municipal boundaries out in the ocean. That is, some research into charters and subsequent private and special laws (if any) dealing with the municipal boundaries may be necessary in order to assert jurisdiction over projects on the submerged lands.

Coastal municipalities should continue to follow the development of this bill.

MARIJUANA (cont'd)

does not go in the pharmacy direction, as described above it does limit the number of dispensaries to eight in the first year of implementation. In addition, the amendment somewhat expands the municipal regulatory authority, perhaps in recognition of the fact that not all municipalities have thorough, town-wide zoning systems or the updated comprehensive plans that would support town-wide zoning.

Specifically, the law adopted by the voters included the following municipal authority, found now at 22 MRSA§2428(10).

10. Local regulation. This chapter does not prohibit a political subdivision of this State from limiting the number of nonprofit dispensaries that may operate in the political subdivision or from enacting reasonable zoning regulations applicable to nonprofit dispensaries.

As amended by LD 1811, that expression of municipal authority no longer includes the term "zoning", thereby allowing the application of other types of reasonable municipal regulation, such as a municipal site plan review ordinance. Site plan review ordinances typically regulate all forms of commercial activity with respect to such issues as noise, traffic, signage, hours of operation, etc., but without respect to geographic location in the community.

The Committee's work on LD 1811 will soon be rolled into the hands of the entire Legislature for final adoption.

LEGISLATIVE HEARINGS

NOTE: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules and supplements are available at the Senate Office at the State House and the Legislature's web site at http://www.state.me.us/legis/senate/Documents/hearing/ANPHFrame.htm. *If you wish to have updates to the Hearing Schedules e-mailed directly to you, sign up on the ANPH homepage listed above. Work Session schedules and hearing updates are available at the Legislative Information page at* http://www.state.me.us/legis/.

Monday, March 29

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

LD 1816 – An Act To Authorize a Bond Issue for Ratification by the Voters for the June 2010 Election To Create Jobs in the State.

LD 1826 – An Act To Authorize Bond Issues for Ratification by the Voters for the June 2010 Election.