

Heritage Policy Center and “Shifty” Accounting

The Maine Heritage Policy Center (“Heritage”) is the organization promoting a citizen initiative that would slash the motor vehicle excise tax rates by 50% and take more than \$80 million annually out of the budgets of Maine’s towns and cities which is used to plow, repair and maintain local bridges and over 13,000 miles of local roads.

According to the “Heritage’s” February 20th *Fiscal Sanity Update* newsletter, municipal officials in general and, more specifically, the town leaders in Windham need a remedial math lesson. The accusation is based on an article published on February 19, 2009 in the Lakes Region Weekly. In that article, Windham town manager Tony Plante states that the citizen initiative proposing to cut the motor vehicle excise tax rates by 50 percent in the first five years would take “nearly \$1.1 million out of the town’s roughly \$14 million budget.”

In its newsletter, “Heritage” labels the statement that Windham has a \$14 million budget as untruthful. If Windham has a \$14 million budget and its motor vehicle excise tax revenue is a reported \$2.7 million, then the excise tax accounts for 19% of the total budget. “Heritage” disputes this “math”, because the town audit shows that \$2.7 million in collected motor vehicle excise taxes account for 5% of the community’s \$51.1 million in total revenues. “Heritage” makes a similar claim of mathematical incompetence against other municipalities such as Brunswick in the February 20th edition of the *Times Record*.

It appears, however, that town lead-

ers don’t need remedial math. Instead, it is the folks at “Heritage” that need to take budgeting 101. While the “Heritage” newsletter focuses on excise tax as a percentage of total revenues, it fails to distinguish that the quote by Mr. Plante is based on the excise tax as a percentage

Public Works Overdrafts

At its February 13th work session on the supplementary Highway Fund Budget (LD 61) the Transportation Committee unanimously voted to include in the bill a provision amending the law authorizing the overdrafts of public works budgets. Under existing law, a road commissioner may, with the written consent of the municipal officers, exceed the road appropriation authorized by the local legislative body (i.e., the town meeting) by 15% for road repairs.

The use of the term “road repairs” in the existing law appears to suggest to some that the municipal officers are prevented from authorizing the road commissioner to exceed the appropriation for “maintenance” expenditures. This is particularly problematic for municipalities during the winter months, when overdrafts normally occur as a result of maintenance. Depending on the type of winter Maine gets, it is often difficult for communities to exactly plan for winter expenditures. With the cost of road salt on the rise and an increase in the number of ice-based storms in Maine, it is not uncommon for municipalities to need to

of the budget for municipal services; that is, the municipal budget as distinct from the school and county budget, a categorization established by the state’s governmental spending limit system known as LD 1.

According to the same audit reviewed by “Heritage”, MMA found that of Windham’s \$49.1 million in budgeted expenses, \$33.6 million was for school and county assessments, expenses which the community must fund but do not fall

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expend more on road salt purchases.

To address this issue, MMA presented an amendment to the existing overdraft law allowing the road commissioner, with the written consent of the

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Site Law Proposal

The Department of Environmental Protection has drafted a bill to amend the Site Location of Development Act (“Site Law”). Because the changes proposed are significant we wanted to notify all municipal officials of the legislation before MMA’s Legislative Policy Committee adopted its position on the bill. A draft of the bill, which has not yet been officially printed, can be found online at this website address: <http://www.maine.gov/dep/blwq/docstand/sitelaw/2009/index.htm>

The draft bill has several sections, the substantial change of municipal in-

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Bills to Remove Tree Growth Withdrawal Penalties, Mandate Additional Notice

On Tuesday this week the Taxation Committee held public hearings on two Tree Growth bills.

One bill would, in effect, remove any actual financial penalty for withdrawing property from the Tree Growth program.

The other would require municipal assessors to send a special notice to any financial institution or other person with a lien on any Tree Growth property whenever the property might be removed from Tree Growth tax category because the property owner failed to properly update the forest management plan.

Relaxing the "penalty". *LD 332, An Act to Amend the Penalty for Withdrawal of Land from the Maine Tree Growth Tax Law Program*, is sponsored by Rep. Windol Weaver (York) and would place a maximum limit on the Tree Growth withdrawal "penalty" of just the back taxes that would have been paid had the property never been enrolled in the Tree Growth program. In other words, there would be no financial penalty for withdrawing the property if placed in the Tree Growth program for purely speculative purposes.

The most vocal proponent of LD 332 was Gregory Orso, a lawyer from York, who told the Committee that on the basis of his experience working with various clients owning land in the Tree Growth program he has concluded that the current penalty system for withdrawing the property should be abolished. Orso's justification for abolishing the penalties are: (1) there are no additional

costs to a municipality when property is withdrawn from the program; (2) the land's developer will still have to pay all the normal fees to the municipality associated with land development; (3) municipalities do not budget for Tree Growth penalties so they are not dependent on the revenue; and (4) the penalties should be abolished for the greater purpose of improving housing affordability.

Another individual spoke in favor of the bill who purchased 32 acres of Tree Growth land on Route 1 in Kittery for \$175,000 without realizing it was in Tree Growth; a mistake on his part that he acknowledged. A few years later he withdrew 4 acres and paid a \$32,000 penalty. He subsequently considered withdrawing the remaining acreage and was, according to his testimony, facing an additional penalty of \$90,000-plus. His position was that the penalties were too high and he should only have to pay the back taxes and, perhaps, a slightly greater amount.

The final person to testify in support of the bill was Jeff McNelly, the Executive Director of the Maine Water Utilities Association. The argument the water utilities were making was hard to follow. Many water utilities are tax exempt and would not be affected by the bill. Investor-owned water utilities pay property taxes as well as some municipally-based utilities owning property outside of their municipal jurisdiction, and it is true that those non-exempt utilities have been known to put their property into the Tree Growth program for the primary purpose of protecting water quality. Presumably those utilities do not intend to withdraw that property from the program and so would not be affected by the bill. McNelly testified that the real concern was when those utilities wanted to buy additional property neighboring the water protection area and there might be a Tree Growth withdrawal penalty associated with that purchase, but that doesn't make sense either because there is no penalty when the ownership of property is transferred but the property remains enrolled in Tree Growth.

Speaking in opposition to the bill was Fred Weymouth, a selectman from the Town of LaGrange. Mr. Weymouth pointed out that LD 332 would effectively remove the entire concept of "penalty" associated with withdrawing land from the program, and encourage even more short-term speculation using the Tree Growth program as a vehicle. Mr. Weymouth said there was enough Tree Growth-related speculation going on already. A supporter of the Tree Growth program when the enrolled property is actually used for commercial timber harvesting in a manner to improve the forest, Weymouth referred to some Tree Growth enrollments in his area and elsewhere that failed to measure up to the stated goals of the program. He also pointed out the value of the penalty as a method to give something back to the other property owners in town who subsidize the Tree Growth benefits with their property taxes year after year but who are never made whole, even with the state's so-called "90%" reimbursement.

MMA also submitted testimony in opposition to LD 332 which paralleled Mr. Weymouth's concerns. The landowners get an obvious and sometimes very substantial financial benefit for having their property in the Tree Growth program. In return, the community is supposed to see the property managed primarily for commercial timber harvesting purposes in a manner that improves the forest, and the community benefit is only realized if the property is enrolled in the program and remains undeveloped for a significant period of time.

LD 332 removes all benefits to the community associated with the Tree Growth program and provides 100% of the tax-break benefits to the landowners. If LD 332 becomes law, there is absolutely no downside to enrolling in the program on the short term and speculatively.

New notification requirement. *The other Tree Growth bill was LD 360, An Act to Notify a Lienholder before Property is Withdrawn from Assessment un-*

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Legislative Bulletin

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TREE GROWTH (cont'd)

der the Maine Tree Growth Tax Law.

Sponsored by Senator Elizabeth Schneider (Penobscot County), LD 360 would expand a Tree Growth notification mandate just enacted in 2007. The bill would require municipal assessors to perform a search at the registry of deeds in order to identify all current lienholders of any property that is going to be withdrawn from the Tree Growth program for the reason of failing to file an update of the property's forestry plan. After identifying all lienholders, LD 360 requires the assessor to formally notify those lienholders that the land is going to be withdrawn from the program unless the forestry plan is filed within a 60 day period. Those lienholders would be given an additional 30-day period (after the 60-day period) to file the updated plan if the actual property owner failed to comply.

When questioned by Committee members about the "mandate" implications of the bill, Sen. Schneider said that it was her intention to make sure that all costs borne by the municipality associated with identifying the lienholders and sending them a letter would be borne by the lienholders themselves, and not the town. She said that the lienholders had an interest in getting this information and were therefore willing to pay the costs.

[Note: Maine's mandate law does not allow the Legislature to erase the "mandate" implication of a bill simply by authorizing the municipality to collect the costs of the mandated service through a fee system or other charge. See 30-A MRSA §5685. If that was not the case, the unfunded mandate law would be meaningless.]

The principal supporter of the legislation was a contract lobbyist representing the family of Herbie Haynes, a family he described as a large forest products landowner. He said that this circumstance of Tree Growth withdrawal is rare and suggested that the actual costs of identifying the lien holders and sending them a letter was negligible...the costs of a phone call and a stamp. When asked by one Committee member if the mortgagee included stipulations in the purchase and sales agreement about retaining the

property in Tree Growth, he said those types of stipulations were not included.

Selectman Fred Weymouth approached the microphone again to speak in opposition to LD 360. Coming from a town with 14,000 acres in the Tree Growth program, Mr. Weymouth testified that he understood the problem, but was entirely able to deal with it locally on a case-by-case basis. For example, a landowner in his community sold some Tree Growth land and "took paper" on the sale; not an uncommon practice among some forestry landowners. In this case the buyer of the property let the land lapse out of Tree Growth by failing to update the forest management plan, but upon complaint by the lienholder who just re-acquired the property, the town let the property stay in Tree Growth without penalty (provided the plan was, in fact, updated). Mr. Weymouth explained to the Committee that searching for lienholders is an administrative task that takes time and can be complicated, and that to do this newly mandated administrative task justice would take more than a mere phone call and a stamp.

MMA also submitted written testimony in opposition to LD 360, again along the lines of Selectman Weymouth's verbal testimony. Conventional mortgagees often impose requirements on their mortgagors to protect the lienholder's interest. Most financial lenders will not let the destructible collateral go uninsured, for example. There is nothing stopping the mortgagees from protecting their interests in this circumstance as well. Municipal officials don't understand why they should be held responsible for informing mortgagees and other lienholders of a property's status in the Tree Growth program. If it matters that much to them, those mortgagees or other priority lienholders should be communicating directly to, or requiring that type of communication directly from, the mortgagor property owner.

Selectman Weymouth's testimony to the Committee on a long Tuesday afternoon was very helpful to the municipality community. Being a selectman is in itself pretty much a volunteer service, and to extend that volunteer contribution with a trek to Augusta from LaGrange to explain to a legislative committee the nuances involved in the ad-

ministration of the Tree Growth program is going above and beyond the call of duty.

SITE LAW (cont'd)

terest is in section 6 of the bill. This provision essentially prohibits the state from issuing a Site Law permit for any Site Law-sized development if the development is not located in a "site-development area" or SDA as defined in the legislation.

Currently, projects that are 20-acres or more in total size, structures of 3-acres or more, or large subdivisions of 20 acres or more are required to get a Site Law permit from either the DEP or from a dozen or so "delegated" municipalities that have the authority to issue Site Law permits.

The current standards that have to be met in order to receive a Site Law permit include: (1) assurance that the project will have no adverse impact on the environment, including noise impacts, (2) satisfaction of the state's erosion and sediment control laws, (3) satisfaction of the state's storm water laws, (4) assurance that the project will not pose an unreasonable risk to significant groundwater aquifers, (5) assurance that there will be no unreasonable adverse effect on existing utility service, including solid waste disposal, (6) no increase in flooding, and, (7) various specific provisions for certain activities such as blasting, grid-scale wind turbines, and large-scale water withdrawal.

The bill adds a new locational standard. For projects other than residential subdivisions, no permit will be issued unless the project is located in a state-recognized "site-development area". There are three types of areas that will qualify as SDAs: (1) a qualified municipal "growth zone" identified in a municipal comprehensive plan that is consistent with Maine's Growth Management Act; (2) a "Census designated place" as determined by the U.S. Census Bureau, or, (3) an "urban compact area", which are built-up areas designated by the Maine Department of Transportation.

For a municipal growth zone to qualify for site law permit purposes it must be included in a comprehensive

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SLG Committee Plows Through the Snow Day

While most Mainers were at work cleaning up from the latest winter storm, the State and Local Government Committee was plowing through a fresh precipitate of legislation. On Monday this week, the Committee held two public hearings and a work session on three bills of municipal interest. The bills addressed by the Committee included abolishing the Intergovernmental Advisory Committee (IAC), ending the practice used by some municipal tax collectors and treasurers to co-mingle municipal and personnel revenues, and amending the way in which municipalities schedule charter commission member elections.

Abolishing the IAC As sponsored by Rep. Terry Hayes of Buckfield, LD 209, *An Act to Abolish the Intergovernmental Advisory Commission*, would do as the title suggests and eliminate the working group established by the Legislature in 2004. When originally established, the members of the IAC were assigned three important tasks: 1) to study ways to reduce the duplication and improve efficiency among the three branches of government; 2) to promote communication, cooperation and efficient delivery of services; and 3) to design a process by which the state can offer guidance, technical support and incentives encouraging regionalization. While Rep. Hayes supports these concepts, she is not convinced that the IAC is the way to achieve those goals.

In her testimony, Rep. Hayes outlined the difficulty she has encountered as the newly appointed House Chair to the IAC to ensure that the 19-member Commission was appointed. During her 9-month tenure as the chair of the IAC she has encountered numerous roadblocks in getting folks on the Commission. Her biggest struggle has been to get a Senate co-chair appointed to the IAC. These struggles have led Rep. Hayes to conclude that there may not be the necessary legislative support behind the IAC. She feels that continuing to call the volunteers who serve on the Commission and who come from as far North as Presque Isle, as far East as Eastport and

as far South as Kennebunk to gather regularly in Augusta may not be the best use of everyone's time.

MMA provided testimony "neither for nor against" LD 209, which closely mirrored the testimony offered by Rep. Hayes. While municipal officials support the goals outlined in the law and believe the work of the Commission would be particularly beneficial for smaller communities, it appears that other state policies, initiatives and efforts have been enacted to address the efficiencies that the IAC was originally designed to address. For example, over the last two years it is the members of the Legislature that have played central roles in two significant "regionalization" efforts. The Appropriations Committee took the lead role in regionalizing the administration of K-12 schools and the Criminal Justice Committee took center stage in the unification of the county jails and state prisons. In addition, the (continuously legislatively raided) Local Government Efficiency fund was created to help fund regionalization efforts at the local level.

While most municipal officials agree that the IAC played an important role when it was first created in 2004, the time has come to put the Commission to rest. Municipal officials admire Rep. Hayes' straight forwardness in taking steps to abolish the Commission rather than letting it limp along, a sentiment which seemed to resonate with several of the members of the State and Local Government Committee.

No other state agency or organization, including the several representatives on the IAC, provided testimony on the bill. The work session to determine the fate of the IAC has not yet been scheduled.

Co-mingling Municipal and Personal Revenues At Monday's public hearing, the Committee also heard testimony on LD 331, *An Act to Clarify the Duties of Municipal Treasurers, Clerks and Tax Collectors*. The bill sponsored by Rep. Dianne Tilton of Harrington, would simply prevent municipal treasurers, clerks and tax collectors from depositing revenues collected on behalf of the

municipality into personal checking and savings accounts.

Rep. Tilton submitted the legislation because of her experience as a development consultant with a CPA firm. Through that experience she has learned of the mistakes, mismanagement and in some cases fraud that can occur in smaller communities where municipal funds are co-mingled with personal accounts. Rep. Tilton believes the bill corrects an omitted prohibition against the co-mingling of public funds with personal funds, resulting in a solution that avoids putting people in situations where errors in judgment can occur.

Ronald Smith, a principal with an accounting firm, and MMA's Legislative Policy Committee agreed with intent behind LD 331 and provided testimony in support of the bill. A work session on LD 331 has not been scheduled.

Charter Commission Member Elections On Monday, the Committee also held a work session on LD 34, *An Act to Clarify the Election of Municipal Charter Commission Members*. Under existing law, municipalities are authorized to either elect charter commission members at the same referendum election authorizing the creation of the charter commission or at the next regularly or specially scheduled municipal election, provided that the election takes place within 200 days of the referendum election that created the charter commission. The problem with the 200-day requirement is that if the election that created the charter commission was held during the regularly scheduled November election, the regularly scheduled June elections falls beyond the somewhat arbitrary 200-day window of opportunity.

As sponsored by Rep. Terry Hayes of Buckfield, LD 34 addresses that issue by authorizing the municipalities to simply hold the charter commission member elections at the same referendum election or at the next regularly or specially scheduled municipal election. In a nutshell, the bill removes the 200-day timeframe.

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HERITAGE (cont'd)

into the category of purely municipal services. According to the audit, the remaining \$15.5 million in expenditures pay for traditional municipal services, such as administration, public safety, roads, public works and recreational services. When basing the revenues collected from motor vehicle excise taxes on the portion of the budget for municipal services, excise tax revenue accounts for 17% of the total budget. The chart printed below shows the differences between the "Heritage" and MMA calculations.

"Heritage" also raises concerns with the "myth that Auto Excise Taxes fund road repairs". There is nothing mythical about it. On a statewide basis, municipal expenditures on roads and bridges is almost to-the-penny the same amount of revenue as they receive in excise taxes plus the local road assistance funds received from the state.

According to the data collected in MMA's 2007 Fiscal Survey report, it is projected that municipalities statewide raised \$210.4 million in motor vehicle excise tax revenues and spent \$235.4 million on roads and bridges. Adding \$25.4 million in state aid for local roads (Urban/Rural Initiative Program) to the motor vehicle excise tax revenue, the funds available to repair and maintain

local roads and bridges increases to \$235.8 million. Accordingly, municipalities spent 99.83% of the revenue generated by the excise tax and state aid for roads on road-related expenditures in 2007. Bringing that down to the local level, in 2008 Windham expended \$3.2 million on public works expenditures and collected \$2.7 million in motor vehicle excise tax revenue. (See chart below)

To MMA and most objective observers, the fact that municipal expenditures on roads - expenditures that are made up entirely of hard costs such as plowing and sanding, paving, road and bridge reconstruction, and roadway repair and maintenance -- equals 99%+ of excise tax revenues and state assistance grants to towns is no coincidence. The public has expected these revenues to be used for roads and they have been.

The quick history of the motor vehicle excise tax is that it was enacted essentially in its current form 80 years ago, in 1929. Before that, cars and trucks were subject to the regular property tax. Therefore, when the property tax approach was converted to an excise tax system, it was stipulated in Maine's Constitution that municipal excise tax revenues remain as "General Fund" revenue to the towns and cities rather than dedicated revenue. Despite the General-Fund designation, as the actual expenditure

data show, motor vehicle excise tax revenues on a statewide basis are used for the hard costs of maintaining Maine's local roads and bridges.

Accordingly, most municipalities are looking at the impact an \$80 million-plus revenue loss would have on the 13,000 miles of Maine roads maintained by local government.

In Windham's case, "Heritage" is demanding that school revenues be included in calculating the impact of their excise tax initiative, but when berating the Town of Brunswick in the *Times Record* "Heritage" said that the loss of excise tax revenue should not be used as threat to cut public safety or vital school services. Well which is it? If we aren't going to be talking about the schools in relation to the excise tax cut, we shouldn't be comparing excise tax revenue to school revenues and expenditures. Similarly, if school spending should be considered as part of the equation, impacts on school budgets resulting from a \$80-plus million loss of revenue are fair game.

"Heritage" wants you to believe that tens of millions in revenue can be slashed out of municipal budgets without any impact on services or other taxes. Perhaps the "Heritage" folks are the ones who truly lack fiscal sanity.

OVERDRAFTS (cont'd)

municipal officers, to exceed the public works budget by 15% for both repairs and maintenance. The proposal resonated with the members of the Transportation Committee and they have included the amendment in the supplemental Highway Fund budget. MMA thanks the Committee for their prompt attention to this important municipal matter.

SLG (cont'd)

After a brief discussion the Committee unanimously voted to support the bill as amended. The amendment to LD 34 makes the proposed change retroactive to January 1, 2009. The retroactivity clause will make sure that those communities that created a charter commission on November 4, 2008 will be able to legally schedule the election of charter commission members in June of 2009.

“Heritage” vs. MMA Analysis

	"Heritage" 2008 Windham Analysis	MMA 2008 Windham Analysis	MMA 2007 Statewide Analysis ¹
Total Revenues	51,082,108	51,082,108	3,420,817,048
Motor Vehicle Excise Tax Revenue	2,669,372	2,669,372	210,570,985
Excise Tax as % of Total Revenues	5%	5%	6%
Total Expenses	-	49,087,961	3,391,744,960
County Assessment	-	904,614	112,019,875
K-12 Education Assessment	-	32,712,826	1,967,694,567
Municipal Expenses (total less county and K-12)	-	15,470,521	1,312,030,518
Excise Tax as % of Municipal Expenses	-	17%	16%

¹2007 MMA Fiscal Survey Report

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 2

Appropriations & Financial Affairs

Room 228, State House, 9:00 a.m.

Tel: 287-1316

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Marine Resources

Criminal Justice & Public Safety

Rm. 436, State House, 10:00 a.m.

Tel: 287-1122

LD 433 - An Act To Reinstate Rules Requiring Inspection of Chimneys upon the Sale or Transfer of Property.

LD 550 - An Act To Protect Maine Residents from Home Fires and Carbon Monoxide.

LR 1283 - An Act to Adjust The Assessment For Correctional Services for Sagadahoc County.

LD 384 - An Act To Amend the Laws Governing the Cap on the Tax Assessment for Correctional Services in Lincoln County and Sagadahoc County.

LD 401 - An Act Creating a Probationary Period for County Corrections Officials.

Legal & Veterans Affairs

Room 437, State House, 1:00 p.m.

Tel: 287-1310

LD 512 - An Act To Facilitate Voting by Maine Residents in the Military Who Are Deployed Overseas.

LD 548 - An Act To Provide Information to Maine Voters About the Cost and Fiscal Impact of Citizens' Initiatives.

LD 534 - An Act To Require Disclosure to a Potential Signer That a Circulator of Petitions for a Direct Initiative or People's Veto of Legislation Is Being Paid.

LD 530 - Resolution, Proposing an Amendment to the Constitution of Maine To Reduce the Number of Signatures Required and Prohibit Payment for Signatures in the Citizen's Initiative Process.

LD 547 - An Act To Amend the Laws Concerning Write-in Candidates for Elected Office To Increase Fairness.

Tuesday, March 3

Appropriations & Financial Affairs

Room 228, State House, 1:00 p.m.

Tel: 287-1316

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Legal & Veterans Affairs

Business, Research & Economic Development

Room 208, Cross State Office Building, 1:30 p.m.

Tel: 287-1331

LD 469 - An Act To Strengthen Rural Community Investment.

LD 500 - An Act to Include as Authorized Project Costs the

Construction or Improvement of Buildings Used by Municipalities for Purposes of Designating Municipal Development Districts.

Health & Human Services

Room 209, Cross State Office Building, 1:00 p.m.

Tel: 287-1317

LD 114 - An Act To Amend the Laws Regarding Overnight Parking of Recreational Vehicles.

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.

Tel: 287-1338

LD 457 - An Act Regarding Nuisance Beaver.

Natural Resources

Room 214, Cross State Office Building, 1:00 p.m.

Tel: 287-4149

LD 460 - Resolve, To Evaluate Climate Change Adaptation Options for the State.

LD 348 - An Act To Facilitate the Removal of Dams That Pose a Hazard to Public Safety and the Installation and Repair of Fishways.

LD 431 - An Act To Make the Site Location of Development Laws More Development Friendly.

LD 506 - An Act To Protect Public Safety and Provide for the Prudent Use of Landfill Capacity.

Taxation

Room 127, State House, 1:00 p.m.

Tel: 287-1552

LD 545 - An Act To Amend the Tax Exemption Regarding Leased Property.

LD 553 - An Act To Amend the Laws Governing Abatement of Property Taxes due to Infirmity or Poverty.

Transportation

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

Tel: 287-4148

LD 513 - An Act To Update the Casco Bay Island Transit District Enabling Law.

Wednesday, March 4

Appropriations & Financial Affairs

Room 228, State House, 9:00 a.m.

Tel: 287-1316

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Insurance & Financial Services, (9:00 a.m.); Business, Research & Economic Development, (1:00 p.m.)

State & Local Government

Room 216, Cross State Office Building, 1:00 p.m.

Tel: 287-1330

LD 463 - An Act To Allow Nonresident Property Tax Owners To Vote on Municipal Budget Matters.

LD 587 - An Act To Allow a Board of Selectmen To Fill a Vacancy on That Board.

Thursday, March 5

Appropriations & Financial Affairs

Room 228, State House, 1:00 p.m.

Tel: 287-1316

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Labor

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IN THE HOPPER

(The bill summaries are written by MMA staff and are not necessarily the bill's summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the Legislative Bulletin to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, www.memun.org.)

Criminal Justice & Public Safety

LD 594 - An Act To Require That Police Reports Be Filed in All Automobile Accidents. (Sponsored by Rep. Richardson of Warren.)

Under current law, a "reportable" automobile accident is any accident that results in death, injury or apparent property damage valued at more than \$1,000. This bill makes all automobile accidents reportable if they result in any apparent property damage.

LD 595 - An Act To Prevent High-speed Chases. (Sponsored by Rep. Knapp of Gorham; additional cosponsors.)

This bill allows a law enforcement officer to summons the registered owner of an automobile involved in a motor vehicle violation rather than engage in a high-speed chase. The bill also creates the offense of "allowing the unlawful use of a motor vehicle".

LD 601 - An Act To Require That the Proceeds from Property Seized through Drug Crime Forfeitures Go to the General Fund. (Sponsored by Sen. Mills of Somerset County.)

Under current law, the value of property that is forfeited because of a conviction of illegal drug trafficking can be divided by a court and issued to the various state, county and local law enforcement agencies that made a substantial contribution to the investigation or prosecution of the drug case. This bill would require that the liquidated value of the forfeited property be deposited in the state's General Fund.

Education & Cultural Affairs

LD 610 - An Act To Add 10 Days to the School Year and To Require Daily Physical Exercise for All School Children. (Sponsored by Sen. Mills of Somerset County.)

This bill adds ten days to the school year and requires every public school to provide daily physical education classes as well as a physical evaluation program for each student.

LD 636 - An Act To Control Education Administrative Costs. (Sponsored by Rep. Bolduc of Auburn)

This bill amends the Essential Programs and Services school funding model to increase the student-to-school administrative staff ratio from about 300:1 to 500:1. The effect of this change will be to reduce the amount of state financial support in the school funding formula for this type of administrative staff, which includes principals, assistant principals and special education coordinators.

LD 698 - An Act To Allow School Budget Validation Referenda To Be held on a Saturday. (Emergency) (Sponsored by Rep. Weaver of York; additional cosponsors.)

This emergency bill amends the law governing the timing of the school budget validation referendum to allow a referendum vote to be held on a Saturday.

Insurance & Financial Services

LD 715 - An Act To Enable the Use of Credit Cards for Government Transactions. (Sponsored by Rep. Crockett of Augusta; additional cosponsors.)

This bill allows a county, municipality or quasi-municipal corporation to impose a surcharge for the use of a credit card for

payments made to the local government for taxes, fines, charges, utility fees, regulatory fees or permit fees. The surcharge may be applied provided the amount of the surcharge is disclosed to the consumer prior to payment and the amount does not exceed the costs incurred by the governmental entity for providing the credit card payment option.

Judiciary

LD 679 - An Act To Allow a Court To Award Attorney's Fees in Successful Freedom of Access Appeals. (Sponsored by Sen. Hastings of Oxford County; additional cosponsors.)

This bill authorizes a court at its discretion to award attorneys fees and expenses to the person who successfully appeals from a decision by a governmental entity not to provide public records under Maine's "Right to Know" law.

Labor

LD 658 - An Act To Require United States Occupational Safety and Health Administration Training for Government Construction Contracts. (Sponsored by Rep. Wright of Berwick; additional cosponsors.)

This bill establishes as a general requirement that any contractor or subcontractor in charge of the construction of a public works contract valued at \$100,000 or more must provide all on-site employees with, at a minimum, a 10-hour, OSHA-approved construction safety program before the on-site employee begins work on the project. The bill exempts certain employees from that requirement, including law enforcement officers involved with traffic control or security, flagging personnel who have completed the Department of Transportation training program, and all relevant federal, stand and municipal employees and inspectors.

State & Local Government

LD 680 - An Act To Hold Municipal Officers Harmless for a Determination That a Town Way or Public Easement Is

(continued on page 8)

HEARINGS (cont'd)

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.

Tel: 287-1338

LD 415 - An Act Relating To Interference with Navigation in Inland Waters.

Friday, March 6

Appropriations & Financial Affairs

Room 228, State House, 9:00 a.m.

Tel: 287-1316

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Agriculture, Conservation & Forestry

Transportation

Room 126, State House, 9:00 a.m.

Tel: 287-4148

LD 452 - An Act To Include the Town of Falmouth as a Member of the Greater Portland Transit District.

LD 485 - An Act To Allow Public-private Investment in Transportation Infrastructure Projects.

LD 436 - An Act to Include Trucks in the Definition of "Low-speed Vehicle."

SITE LAW (cont'd)

plan that is both consistent with the state's Growth Management Act and it must have been adopted by the municipality.

There are some exceptions to the proposed general prohibition such as for wind power developments and "reconstruction or expansions" of developments in existence on January 1, 2010. The exact scope of these exceptions is a bit murky at this point.

For residential subdivisions, the project must be located in an SDA, or it must be served by a public sewer system or the project must meet new "conservation subdivision" standards which are being proposed in conjunction with this legislation (See proposed Chapter 381 at the website provided above).

The policy goal of the legislation appears to be to integrate land use planning goals, such as the prevention of sprawl, with site law goals, which are environmental protection.

The DEP has prepared a great deal of information related to this proposal and posted that information online (<http://www.maine.gov/dep/blwq/docstand/>

[sitelaw/maps/index.htm](http://www.maine.gov/dep/blwq/docstand/sitelaw/maps/index.htm)). Of most interest would be: Google Earth maps that have been created that show the SDAs on aerial photographs; a list of all municipalities and their SDA status; and a list of all site law permits issued in 2006-2008 and whether the permitted project was inside a proposed SDA.

From the data it appears that over 300 municipalities will have qualified SDAs within the municipal borders although the DEP has not yet concluded its review of this issue. Also, of the 197 site law permits issued from 2006 through 2008, approximately 111 (56%) were in SDAs as defined in the draft legislation. Some further exploration of the nearly 86 projects that fell outside the proposed SDAs would probably be helpful. Interestingly, 18 of these 86 projects were in municipalities with comprehensive plan-

based growth areas, but the projects were located outside of the growth areas nonetheless.

Municipal officials are strongly encouraged to review this information for two purposes. First, you should make sure the listing of your municipality's status is accurate with respect to the identified growth zones and urban compact areas. It is our understanding that the growth zone does not have to have been approved by the State Planning Office to qualify, but it must be in a comprehensive plan that was adopted by the municipality. Second, you should see how the proposal to limit Site Law permits to only those municipalities with "SDAs" will impact your community.

For additional information or assistance please contact MMA's Jeffrey Austin at jaustin@memun.org

HOPPER (cont'd)

Considered Abandoned. (Sponsored by Sen. Hastings of Oxford County; additional cosponsors.)

This bill establishes that a decision by the municipal officers regarding the status of a road that may have been abandoned to maintenance is a "quasi-judicial act" of the municipal officers, which provides the municipal officers protection from liability under Maine's Tort Claims Act.