

# Stopping the Abuse of the Local Government Efficiency Fund

A consensus appears to be quietly developing within the State House to finally put an end to the abuse of the Local Government Efficiency Fund. The Efficiency Fund, which is made up of municipal revenue sharing dollars, has been mistreated since it was established five years ago.

Anybody who says or truly believes that the Legislature feels compelled to honor initiatives that are adopted by Maine's voters should take a hard look at how the Legislature has treated the Local Government Efficiency Fund since it was adopted by the voters in 2004.

In summary, the structure of the Local Government Efficiency Fund was developed by Maine's municipal leaders as a way to respond to the call of the Governor, the Legislature, the Maine press and others to explore ways to provide local government services more efficiently.

The system the municipalities designed diverted 2% of municipal revenue sharing revenues into a special fund

and allowed municipalities to compete for grants from that fund to provide financial support for new, regionally-based governmental service delivery systems. Regional assessing. Regional public

works. Regional solid waste management. Whatever.

In summary, the Local Government Efficiency Fund asked for no additional

*(continued on page 2)*

## Firefighters and Workers Comp Benefit

On Thursday this week, the Labor Committee took testimony on a bill LD 621, *An Act Allowing Workers' Compensation Benefits for Firefighters Who Contract Cancer*, sponsored by Senator Bartlett (Cumberland). This bill could significantly increase the costs municipalities (and property taxpayers) face in providing workers compensation benefits to almost 10,000 full-time and volunteer firefighters. LD 621 represents a significant municipal mandate.

The bill would create a statutory presumption that any firefighter diagnosed with cancer contracted the disease as a result of firefighting. It would then be the responsibility of the municipalities to prove that the cancer was caused by something else. Since there are any number of known and unknown causes of cancer, it will be difficult for municipalities to meet that burden.

The support for the bill came from firefighters, a medical professor retained by the firefighters and the environmental community. The proponents argue that cancer is the result of a career of responding to fires and chemical spills; it's the result of breathing toxic fumes on the job. Materials submitted to the Committee stated that the "Maine fire fighters and fire chiefs strongly believe that sufficient evidence is available that shows

fire fighters suffer from cancer due to their fire fighting exposures."

Some of the proponents testified that battling cancer and battling for workers compensation benefits is too difficult. However, none actually told a story of bringing a case to the Workers' Compensation board in Maine. Proponents spoke about research in Cincinnati and the law in Vermont. They spoke of the dangers of firefighting and the ravages of cancer.

Cancer is a terrible affliction and sympathy is due any Mainer who suffers from the condition. Unfortunately, too many people suffer from cancer. In fact, the American Cancer Society claims that the lifetime probability of an American male developing cancer is 1 in 2. The issue though is not whether firefighters are good or cancer is bad. The issue is whether Maine's Workers' Compensation system should be amended.

MMA testified against the bill for several reasons.

First, the title of the bill is flatly deceptive. Firefighters, just like any other workers in Maine, are allowed to file a claim for workers compensation benefits on the basis that their work caused them to contract cancer. There is simply no bar to such a claim now and no legislation is needed to create one.

*(continued on page 3)*

### Public Hearing Next Thursday on Excise Tax Initiative

On Thursday next week the Taxation Committee will be holding a public hearing on the initiated bill that would cut the motor vehicle excise tax rates by 50% or more during the motor vehicles' first four years of registration, reducing the revenue that is used by towns and cities to construct, repair and maintain local roads and bridges by over \$84 million each year.

The initiated bill is LD 974, *An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency*.

The public hearing will be held at 1:00 p.m. on Thursday, March 26 in room 127 of the State House.

## ABUSE (cont'd)

or special funding from the state. Instead, it was a self-funded initiative using only revenue that would otherwise have been distributed to the municipalities according to a prescribed formula.

Despite all of that, ever since the voters created the Efficiency Fund, the Legislature, with the Governor's signature, has diverted almost every single revenue sharing dollar to the state's General Fund to balance the state budget. As complex and buried as some state budget issues can be, there are quite a few rank-and-file legislators who are completely unaware that any of this is happening on a year-to-year basis.

Legislative veterans, however, are clearly aware of how the Local Government Efficiency Fund has been diverted to the state's General Fund since it was created. Unbelievably, that diversion was actually codified into state law last year such that Maine law currently says that \$2.5 million in municipal revenue sharing will be diverted into the Local Government Efficiency Fund each year, but no more than \$500,000 can be used for the Efficiency Fund's stated purpose and the rest must be given to the state's General Fund. Each year, every year, forever.

And then on top of that, the Legislature for the last several years has swept the remaining \$500,000 into the state's General Fund as well.

So much for honoring the will of the voters when they act by initiative.

There are four bills this session and three separate legislative committees dealing with this issue.

**Governor's Approach.** LD 353 is Governor Baldacci's proposed state bud-

get being presently considered by the Appropriations Committee. The Governor's budget supports the continued use of the Local Government Efficiency Fund to divert \$2 million each year in municipal revenue sharing to the state's General Fund. The State Planning Office testified in support of this approach to the Appropriations Committee at public hearing.

**State and Local Government.** One legislator who completely groks this issue is Rep. Terry Hayes of Buckfield. Rep. Hayes has submitted two bills on this subject, both of which were referred to the State and Local Government Committee, of which she is a member.

LD 279, *An Act To Amend the Laws Governing the Fund for the Efficient Delivery of Local and Regional Services*, would reduce from 2% to 1% the amount of revenue sharing funds used to fund the program, thereby creating less revenue for the Legislature to raid. The bill would also repeal the "institutionalized raid" language enacted by the Legislature in 2008 that requires all but \$500,000 to be diverted to the state's General Fund.

LD 761, *An Act To Abolish the Fund for the Efficient Delivery of Local and Regional Services*, would simply abolish the Efficiency Fund. Under LD 761, no money would be diverted out of revenue sharing into any other fund.

MMA testified "neither for nor against" the two bills. Municipal officials support the elements of both bills that would end the institutional raid on revenue sharing. The Association's Legislative Policy Committee (LPC), however, is supporting an alternative use for the set-aside funds. Rather than investing the set-aside revenue sharing funds in the Efficiency Fund program, the LPC developed legislation to divert the funds into the Municipal Investment Trust Fund (see below).

**Taxation Committee.** The bill on this issue referred to the Taxation Committee was given its public hearing on Wednesday this week. (It is unclear why bills on the very same subject were referred to different Committees.)

LD 808, *An Act To Capitalize the Municipal Investment Trust Fund with Municipal Revenue-sharing Resources*, was presented to the Committee by its sponsor, Senator Margaret Craven

(Androscoggin County). Sen. Craven explained that LD 808 would replace the 2% revenue sharing set-aside for the Efficiency Fund with a 2% set-aside for the more-established and widely recognized, 15 year old Municipal Investment Trust Fund. Sen. Craven stressed the importance of providing a stable source of funding for the Investment Trust Fund which has heretofore relied on intermittent, hit-or-miss funding for statewide bond issues.

MMA testified in support of LD 808. Since it is obvious that the Legislature has little respect for the Local Government Efficiency Fund, LD 808 is an attempt to recast the attempt of the municipalities acting together to self fund a program that supports the financing of important capital projects at the local level. In the economic circumstances we are currently facing, being able to stimulate the creation of jobs on the short-term, and create infrastructure important to economic development on the long term, is essential.

Richard Trahey, representing the Maine Service Center Coalition, also testified in support of LD 808, distributing information documenting the construction projects throughout Maine that were stimulated with Trust Fund capital in the earlier part of the decade when the Fund was last charged with bond revenue. The testimony underscored the fact that a dependable and stable approach to capitalizing the Trust Fund is long overdue.

And Rep. Hayes, attempting to connect the communication circuit between the Taxation and State and Local Government Committees, also testified to the Taxation Committee regarding the State and Local Government Committee's interest in working collaboratively with the members of the Taxation Committee to develop a unified recommendation that would meet the need of the municipal community.

Municipal officials are very appreciative of the efforts of Senator Craven, from one of Maine's largest cities, and Representative Hayes, from a smaller, more rural community, to correct what has gone wrong with the treatment that has been given to the Local Government Efficiency Fund and put the system back on a constructive track.

### Legislative Bulletin

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## **FIREFIGHTER (cont'd)**

In fact, Maine's Workers' Compensation law has an "occupational disease" section that is specifically designed to handle claims regarding diseases which are "due to causes and conditions characteristic of a particular trade, occupation, process or employment."

Furthermore, the Legislature created a specific firefighter-only benefit within that law which waives the statute of limitations for firefighters who claim they developed cancer as a result of their employment. To our knowledge, firefighters rarely pursue this invitation to claim cancer is caused by firefighting.

Second, if the firefighters truly believe that "sufficient evidence is available" to prove that firefighting causes cancer, they should be able to prove their claim in the current Workers' Compensation system. In other words, if they are right about the science, they shouldn't need the bill; if they are wrong, the bill lacks proper foundation.

Third, this bill flips the workers compensation system on its head. The burden to establish that the cause of an ailment was work-related should rest with the worker. No other workers in Maine except public safety personnel ever receive statutory presumptions in their favor. Workers' Compensation is becoming a two-standard system: one standard for public-sector employees and one standard for private-sector employees. It is becoming apparent that politics is deciding who benefits under the workers compensation system and that is a dangerous trend.

There is a reason for the worker to have to prove that an ailment is work related. It is much more difficult for the municipality to prove that the cancer is not work related. Employers simply don't possess evidence of the claimants' lifestyle, diet, exercise habits, family history and exposures from other careers. Municipalities don't track their employees away from work. However, firefighters know what they have been doing during their careers. They have a much better opportunity to track their professional activities than municipalities have to monitor their private activities. From an awareness standpoint, the current system is eminently more fair

than the flip in burden-of-proof as proposed by this bill.

Fourth, this legislation will have the effect of moving the treatment of cancer from the health care system to the workers compensation system. The health care system has cost-controls such as pre-approvals, co-pays and lifetime limits. Workers' Compensation, although it was supposed to develop such controls years ago, has none.

Sixth, while the proponents are correct that several states have enacted forms of cancer presumption legislation, the version submitted by Senator Bartlett is an extreme version compared to the others.

For example, LD 621:

- has no length of service requirement; a firefighter could receive the presumption even if they only worked for a year;
- does not require that the firefighter actually fight fire; that is, administrative personnel are eligible;
- does not require any screening for family history or lifestyle choices, such as smoking;
- imposes no age limit on when the diagnoses occurs;
- includes a 20-year tail such that a former firefighter gets the benefit of the presumption for up to 20-years after the firefighter retires;
- covers almost all forms of cancer, even those for which the data shows no link to firefighting; and,
- includes volunteers not just career firefighters.

This last issue creates massive expenses.

There are approximately 8,000 volunteer firefighters in Maine. Their municipal employers must provide them workers compensation benefits; however, almost none provide them health care benefits given their volunteer, part-time status. So, if a volunteer firefighter gets cancer, the municipal taxpayers will be exposed to their health care costs for the first time.

MMA also operates a workers compensation program and it covers many municipalities. Some of the municipalities it does not cover are Maine's largest, which are self-insured. If these large municipalities ever have a cancer case through workers compensation, they pay

the full costs "out of pocket" as they are self-funded.

Another issue with covering volunteer firefighters is that they have other jobs which may expose them to carcinogens. For example, the medical literature upon which the firefighters base their claim indicates that exposure to herbicides or pesticides, paints, organic solvents, engine exhaust, metallic dusts, metal working fluids, hydrocarbon and diesel engine emissions increase the likelihood of cancer.

So, if a volunteer is working in landscaping, farming, automotive repair, painting, the semi-conductor industry, metal work or even toll taking on the highway they are exposed to carcinogenic occupational hazards. The bill does not provide a presumption that these other occupations cause cancer.

The discriminatory aspects of LD 621, as it is written for only one type of employee, demonstrates that the issue is not science-based. If it were, all employment in Maine that increased the likelihood of cancer would be given the benefit of presumptions. But, only firefighters have the benefit. This is not the first time for such legislation.

Two years ago, the Legislature enacted a health insurance benefit exclusively for firefighters and policemen. The new law provides these workers subsidized insurance so that they can retire at an age far younger than the age of Medicare eligibility. The subsidy covers a portion of the early "retirees" health insurance until the retiree becomes eligible for federal health insurance. This program has been underfunded since the day it was enacted and is responsible for an approximately \$20 million 'unfunded actuarial liability' on the state's books.

Firefighters are vital to our collective safety and well being. They deserve our thanks and gratitude. They also deserve a fair workers compensation system which covers their injuries on the job. They have that today. Arguments in support of this legislation are not policy arguments which belong in the Legislature, they are legal causation arguments that belong in the system that all other Maine workers rely upon for their protection.

This expensive unfunded mandate should be rejected.

# Legislation Giveth and Taketh Away

The Natural Resources Committee heard testimony Thursday on two different topics that treated municipalities remarkably differently.

**Wind turbine regulation.** On the topic of large-scale wind mills, Representative Richard Cebra (Naples) presented LD 199, *An Act to Facilitate Wind Power Siting*. The purpose of this bill is to prohibit municipalities from having any “location or design” regulations for larger (over 100kw) windmills that are required to receive a permit from the Department of Environmental Protection (“DEP”). Rep. Cebra related that he had never received so much negative public response to a piece of legislation he filed as with this bill. His primary argument in support of his bill is that the pace of windmill approval is much too slow and that steps should be taken to expedite the approval process.

The only support for the legislation came from an employee of Reed & Reed construction company and a real estate developer named Scott Dobson. Each relayed essentially the same message that a more standardized set of rules would facilitate development.

None of the proponents cited a specific example in Maine of a project being unfairly denied a permit.

The Maine Municipal Association opposes the bill. MMA’s first argument is that the bill seeks to solve a non-problem. That is, municipalities are currently regulating these windmills and they are being installed. There is no evidence to suggest that municipal regulation is an undue obstacle to the installation of wind turbines. Certainly, not all projects will receive approval.

Second, municipalities have long had authority over land use regulation. Noise standards, visual impacts, and setbacks or “fall zones” for safety purposes, are all standard municipal land use topics. While municipalities don’t object to the DEP creating state-level standards, the existence of those standards should not be cited as a reason to eliminate local regulations. If something must yield here, it should be the DEP regulations – at least in municipi-

palities that choose to adopt standards.

Third, the state standards do not appear to be comprehensive. For example, the state regulations refer to local zoning. Ironically, the location within a municipality where a turbine may be located is recognized as a legitimate local decision in the state permitting scheme, yet this bill would preempt local zoning.

Finally, the executive branch has chosen an alternative approach—a model municipal ordinance. For several months, the State Planning Office and the Kennebec Valley Council of Governments have been developing a model ordinance that municipalities may use to regulate wind turbines. SPO has reached out to interested parties, including MMA, regarding the contents of that ordinance. MMA prefers this type of state-local partnership rather than Rep. Cebra’s approach to eliminate local input. The model ordinance should not be viewed as an exclusive regulatory framework. Many municipalities have taken slightly different approaches and this is not an issue where there is such a volume of construction that standards need to be identical in different communities.

At least 30 citizens attended the hearing and more than dozen passionately testified against the bill. In addition, the Department of Environmental Protection also opposed the bill.

**Water extraction.** On the topic of large-scale water extraction, two bills were heard that would extend authority to municipalities to regulate the amount of water extracted. The first bill, LD 645 *An Act to Provide Municipal Oversight and Authority over Groundwater Extraction*, was sponsored by Rep. Ralph Sarty (Denmark). This bill amends the existing statute that permits municipal regulation of the uses of drinking water sources. It adds to this existing power the authority to regulate the “extraction and removal for commercial purposes” in order to protect the “long-term sustainability” and the “health safety and welfare” of persons using the water supply.

The second bill, LD 663, *An Act to Clarify a Municipality’s Authority to*

*Pass Ordinances That Govern the Extraction of Groundwater*, was sponsored by Representative Jim Schatz (Blue Hill). This bill amends two sections of law that outline the state regulation of large-scale water extraction to explicitly recognize in each section that municipalities may enact more stringent standards. While this local authority may arguably exist today, the bill takes away any uncertainty or doubt. Rep. Schatz proposed an amendment to his bill to clarify that ordinances could not only regulate water withdrawal but also prohibit it.

The bills were heard together.

Support for LD 663 largely, but not exclusively, came from citizens in the Shapleigh-Newfield area. Citizens in Shapleigh recently passed an ordinance that declares “no corporation shall engage in water withdrawals in the Town of Shapleigh” and that “no corporation doing business within the Town of Shapleigh shall be recognized as a ‘person’ under the United States or Maine Constitutions, or laws of the United States or Maine.” These citizens testified that the elected officials in Shapleigh were uncooperative in the enactment of this ordinance and that they had to enact the ordinance without the support of the selectmen.

Supporters for LD 645 attempted to clearly distinguish the intent of that bill, which was simply to ensure that municipalities had the authority to regulate – not prohibit – water withdrawals. While supporters of LD 645 recognized that Home Rule as a legal doctrine might provide the adequate legal basis for municipal regulation of water extraction, they did not want to leave that to chance. Furthermore, LD 645 empowered the elected officials, not the town meeting, to enact these regulations on an emergency basis.

MMA testified ‘neither for nor against’ both bills. Municipalities certainly appreciate that legislators are seeking to expand municipal authority rather than restrict or curb it, as in LD 199.

However, the municipal officials on MMA’s policy committee who reviewed the bill were unconvinced of the need for

(continued on page 8)

### **Business, Research & Economic Development**

LD 997 – An Act To Clarify the Limits of the Maine Uniform Building and Energy Code. (Sponsored by Rep. Hinck of Portland; additional cosponsors.)

This bill amends the law enacted in 2008 mandating the implementation of the Maine Uniform Building and Energy Code to direct the Technical Building Codes and Standards Board to adopt an appendix to the Uniform Energy Code that incorporates more stringent energy standards than the uniform code, the so-called “stretch energy standards”. The bill also authorizes municipalities to adopt the stretch-energy standards as published in the appendix as an approved alternative to the uniform energy code.

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

LD 726 – An Act To Improve the Process for Issuing Concealed Weapons Permits. (Sponsored by Sen. Gerzofsky of Cumberland County; additional cosponsors.)

This bill requires any governmental agency authorized to issue concealed weapons permits to, as part of the overall review, request from the State Bureau of Identification and receive copies of any abstract of a court ruling regarding the applicant’s mental fitness.

LD 1076 – An Act To Create a Statewide Training Protocol for Responding to Mental Health Crises. (Sponsored by Rep. McCabe of Skowhegan; additional cosponsors.)

This bill directs the Maine Criminal Justice Academy, the State Fire Marshall’s Office and the Emergency Medical Services Board to develop training programs of at least four hours (for initial training) for all law enforcement officers, firefighters, and emergency services personnel that deal with the issue of serving people with mental illness.

### **Judiciary**

LD 981 – Resolve, To Establish a Study Commission To Examine the Issue of Eminent Domain. (Emergency) (Sponsored by Sen. Davis of Cumberland County; additional cosponsors.)

This emergency resolve establishes an 8-member commission that is directed to examine the right of governments to exercise eminent domain. The commission members consist of six legislators, one municipal official and one state resident.

### **Legal & Veterans Affairs**

LD 990 – An Act To Increase the Preservation Time for Municipal Campaign Finance Reports. (Sponsored by Rep. Russell of Portland)

This bill requires municipalities with populations greater than 15,000 to retain campaign reports filed by candidates in municipal elections for a period of not less than 12 years.

### **Natural Resources**

LD 871 – An Act To Facilitate Compliance with Solid Waste Management Rules. (Sponsored by Rep. Duchesne of Hudson.)

This bill amends the laws governing the recycling and other solid waste management standards that apply when a solid waste processing facility proposes to expand or create a new facility. The bill directs the Maine Department of Environmental Protection (DEP) to develop a report that: (1) defines the term “to the maximum extent practical” as it is used in that law; and (2) investigates new technology regarding the creation of “fines” that are sometimes used to cover solid waste landfills. The bill also places a moratorium on the creation or expansion of a solid waste disposal facility that accepts residue from construction and demolition debris recycling projects until rules are promulgated by DEP setting mandatory

recycling standards for all solid waste disposal facilities. The bill also places another moratorium on the creation or expansion of all solid waste disposal facilities until DEP rules are promulgated governing a any facility’s gas and odor management systems.

LD 1011 – An Act To Improve Solid Waste Disposal Quality. (Sponsored by Rep. Hanley of Gardiner.)

This bill prohibits a solid waste disposal facility from landfilling or incinerating solid waste if the waste has not been sorted in accordance with DEP rules. The bill also prohibits the transport of solid waste from a solid waste disposal facility if the waste has not been tested in accordance with DEP rules.

LD 1032 – An Act To Ensure That Maine’s Electronic Waste Collection and Recycling System Is Self-funded. (Sponsored by Rep. Hinck of Portland; additional cosponsors.)

This bill establishes a registration requirement for the manufacturers of certain electronic products that eventually become electronic waste that is separately collected, transported and recycled as “e-waste”. The annual registration fee is \$5,000 and the money is deposited in the Maine Environmental Protection Fund which is used to finance various solid waste management programs at the state level.

LD 1051 – An Act To Encourage Tire Recycling. (Sponsored by Rep. Sirois of Turner; additional cosponsors.)

This “concept draft” bill proposes to impose a required deposit on the purchase of each new tire sold which would be returned to the consumer when the spent tire is returned to the tire dealership or municipality recycling center.

### **State & Local Government**

LD 1028 – An Act To Enhance Municipal Home Rule Statutes. (Sponsored by Rep. Casavant of Biddeford; additional cosponsors.)

This bill authorizes a municipality to adopt an ordinance that denies a corporation the constitutional rights, privileges, powers or protections that are provided to people.

LD 1029 – An Act To Authorize Municipalities To Protect the Habitability of Rental Housing during Heating Fuel Emergencies. (Emergency) (Sponsored by Rep. Casavant of Biddeford; additional cosponsors.)

This bill authorizes municipalities, after providing notice to a landlord, to provide for the delivery of heating fuel to rental housing units that are facing an imminent threat of becoming uninhabitable because of a lack of heating fuel. The bill also provides the procedures that must be followed in order for the municipality to place a lien on the rental housing property to recover the costs of the heating crisis intervention.

LD 1064 – An Act To Increase Efficiency through Regionalization. (Sponsored by Sen. Bartlett of Cumberland County; additional cosponsors.)

This bill would amend the value of certain appropriations made by county government or a municipal government from the LD 1 property tax levy limit. The exempted appropriations would be those that facilitate a multi-municipal agreement or county-municipal agreement to study, initiate or consolidate a regional service. The exemption would apply for up to 10 years if certain standards are met as monitored by the Department of Administrative and Financial Services.

### **Taxation**

LD 993 – An Act To Implement the Recommendations of the Commission To Study the Protection of Farms and Farmland Pertaining to Taxation. (Sponsored by Sen. Nutting of

*(continued on page 7)*

## 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 23**

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

LD 901 – An Act To Restrict the Size of Political Signs on Vehicles.  
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.

**1:00 p.m.**

LD 903 – An Act To Allow an Election Clerk To Request Proof of Identity from a Voter.  
LD 900 – An Act to Prohibit Payments to Persons Who Collect Signatures for the Direct Initiative or People's Veto of Legislation.

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

LD 763 – An Act To Clarify the Warrant Article Petition Process.  
LD 786 – An Act To Require That Minutes Be Kept of Municipal Meetings.  
1:00 p.m.  
LD 905 – Resolve, To Require the State To consult with the City of Hallowell prior to the Sale of Certain Real Property.

### **Tuesday, March 24**

**Business, Research & Economic Development**  
**Room 208, Cross State Office Building, 9:30 a.m.**  
**Tel: 287-1331**

LD 272 – An Act To License Home Building and Improvement Contractors.  
LD 731 – An Act To Designate Cumberland County as a Pine Tree Development Zone.  
LD 504 – An Act To Enhance Economic Development in Rural Maine.

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

LD 760 – An Act To Improve Landfill Capacity.  
LD 871 – An Act To Facilitate Compliance with Solid Waste Management Rules.  
LD 876 – Resolve, To Create a Surrounding Community Advisory Panel for the Juniper Ridge Landfill in Old Town.

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

LD 736 – Resolve, Directing the Department of Transportation To Request Federal Funding for the Extension and Completion of Interstate 95.  
LD 862 – An Act To Improve the Health of Maine Citizens and Safety of Pedestrians.

LD 878 – An Act To Change the Status of the Road System at the Loring Development Authority.

**Utilities & Energy**  
**Room 211, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-4143**

LD 953 – An Act To Amend the Charter of the Winterport Water District.  
LD 883 – An Act To Amend the Charter of the Tenants Harbor Standard Water District.  
LD 850 – An Act To Ensure Local Broadband Coverage.

### **Wednesday, March 25**

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

LD 631 – An Act To Amend the Laws Relating to the Department of Corrections.

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

LD 160 – An Act To Require the Department of Education To Provide an Accounting of School Subsidy Based on Individual Members in a Regional School Unit or Alternative Organizational Structure.

LD 816 – An Act To Authorize the Commissioner of Education To Issue Separate Subsidy Checks to Each Municipality in an Alternative Organizational Structure.

LD 818 – An Act To Improve Transparency in the School Funding Formula.

LD 636 – An Act To Control Education Administrative Costs.

LD 190 – Resolve, Directing the Department of Education To Convene a Stakeholders Group To Analyze the School Funding Formula.

LD 551 – An Act To Improve the Essential Programs and Services Funding Formula.

LD 806 – An Act To Authorize Fuel Cost Stabilization Funds To Be Established in School Administrative Units.

**Maine's Energy Future**  
**Room 211, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-4143**

LD 955 – An Act To Transform the Maine Economy and Create Jobs.

**Marine Resources**  
**Room 214, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1337**

LD 852 – An Act To Clarify the Public Ownership of Marine Organisms within the Intertidal Zone.

### **Thursday, March 26**

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

LD 364 – An Act To Eliminate Schools' Responsibility for Transportation of Preschool Students.

**Inland Fisheries & Wildlife**  
**Room 206, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1338**

LD 656 – An Act To Allow Members of the Armed Forces Who Are Not Residents but Own Property in this State To Obtain Resident

*(continued on page 7)*

## HEARINGS (cont'd)

Hunting and Fishing Licenses or Permits.

### Labor

**Room 220, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1333**

LD 801 – An Act To Clarify the Rights of Public Employee Unions and Public Employers To Agree through Collective Bargaining To Permit Payroll Deductions for Union Dues or Other Funds.

LD 829 – An Act To Clarify the Right of Public School Employees To Engage in Collective Bargaining.

LD 934 – An Act To Clarify Public Sector Employee Fair Choice in Collective Bargaining.

### Taxation

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

LD 974 – An Act To Decrease the Automobile Excise Tax and Promote Energy Efficiency.

LD 195 – An Act To Base the Excise Tax on Vehicles on a Percentage of the Manufacturer's Suggested Retail Price.

LD 381 – An Act To Base the Motor Vehicle Excise Tax on the

Documented Actual Sale Price Rather than the Maker's List Price.

LD 459 – An Act To Provide Tax Relief for Maine Residents Deployed for Military Service.

LD 588 – An Act To Amend the Excise Tax on Motor Vehicles To Reflect Depreciation.

*Friday, March 27*

**Business, Research & Economic Development**  
**Room 208, Cross State Office Building, 12:00 p.m.**  
**Tel: 287-1331**

LD 1054 – An Act To Promote Economic Development in the Greater Portland Region.

### Transportation

**Room 126, State House, 10:00 a.m.**  
**Tel: 287-4148**

LD 745 – An Act To Allow the Operation of Modified Utility Vehicles on Public Ways.

LD 873 – An Act To Improve Wheelchair-dependent Parking Access.

LD 875 – An Act To Promote Fuel Conservation by Allowing the Use of Mini-trucks on Public Ways.

LD 907 – An Act To Amend the Speed Limits for Low-speed Vehicles.

## HOPPER (cont'd)

Androscoggin County)

This bill implements several recommendations of a commission to study the protection of farms and farmland. Among the several recommendations, this bill would: (1) make a minor change to the income standards of eligibility to enroll property in the farmland current use tax program by requiring the agricultural products that are either sold or produced for home consumption to satisfy the so-called "\$2,000 gross income" standard are actually defined as agricultural products, and not, for example, fire wood; and (2) establish a municipal reimbursement program to cover the lost property taxes associated with farmland enrollments that parallels the Tree Growth reimbursement program.

LD 1060 – Resolution, Proposing an Amendment to the Constitution of Maine To Restrict Property Revaluations. (Sponsored by Sen. Bliss of Cumberland County; additional cosponsors.)

This bill sends to the voters a proposed constitutional amendment that would prohibit any increase in the assessed value of any property unless and until there is a change in ownership, a change in the use of the land to increase income or expansion of the use of that land to increase income. When either of those circumstances occurs, the adjustment to value must be to the property's just value, except that if there is an expansion of the use of the land to produce income, the adjustment is limited to the investment amount of the improvements. The bill also provides that when there is a change in the assessed value, the change in value is subject to the real estate transfer tax and allocated to the municipality where the property is located. In general, this bill would create for Maine the "Prop 13" assessing method used in California.

LD 1087 – Resolution, Proposing an Amendment to the Constitution of Maine To Cap the Property Tax on the Primary Residence of a Person 65 years of Age or Older. (Sponsored by Sen. Davis of Cumberland County; additional cosponsors.)

This bill sends out to the voters a proposed amendment to the Constitution that would freeze the assessed value of property owned and occupied by persons 65 years of age or older. The proposed amendment also allows the frozen value to be maintained until such

time as the property is transferred to a person other than a family member.

LD 1088 – An Act To Modernize the Tax Laws and Provide over \$75,000,000 to Residents of the State in Tax Relief. (Sponsored by Rep. Piotti of Unity; additional cosponsors.)

This bill implements a comprehensive tax reform package that does the following:

With respect to the state income tax, the bill: (1) creates a flat income tax rate of 6.5%, thereby reducing the current top marginal rate of 8.5% by 2 percentage points; (2) creates a new system of established income tax credits that taxpayers may use to adjust their gross taxable income, which phase out at higher income levels; and (3) modifies the current system of adjusting gross income by itemized deductions allowed by the federal tax code, all of which may be used by taxpayers as an alternative to the tax credit system.

With respect to the state sales tax, the bill: (1) expands the sales tax base by applying the general 5% sales tax to amusement and recreation services, installation, repair or maintenance services, personal property services, and transportation and courier services; (2) increases the meals and lodging sales tax rate of 7% to 8.5%; and (3) increases the sales tax rate that applies to short-term automobile rental from 10% to 15%.

With respect to the Real Estate Transfer Tax (RETT), the bill applies a supplemental RETT to residential property that is sold or transferred with a value greater than \$500,000. The supplemental transfer tax rate is \$5.60 for each \$1,000 in value of the residential property that exceeds the \$500,000 threshold.

With respect to the property tax, this bill increases the percentage of state sales and income tax revenue that is dedicated to municipal revenue sharing from 5.1% to 5.2%, an increase that was enacted in 2000, deferred through 2009, and is proposed for repeal in the Governor's proposed state budget.

In gross numbers, this bill is designed to expand sales and transfer tax revenue by approximately \$150 million and use that revenue to reduce the income tax rate and income tax revenue by the same amount. Within that transfer, approximately \$50 to \$75 million in tax burden is shifted from Maine residents to non-residents.

## LEGISLATION (cont'd)

the legislation. And while it may be tempting to support the rare legislation that expands municipal powers given there is so much of the opposite, MMA's Legislative Policy Committee (LPC) took a neither-for-nor-against approach.

This legislation, like the bills in front of the Utilities and Energy Committee described in previous *Legislative Bulletins*, were spurred by the activities of Poland Spring. Many municipal officials have had no direct experience with a spring water bottler. Those on the LPC who had worked with the bottling companies indicated that they were positive experiences. Two members described how Poland Spring had approached their municipalities with proposals to establish withdrawal points. However, in each case Poland Spring did not pursue the deal because, upon testing, the company felt the aquifers were not sustainable. So, while they get the sense that its popular to fear Poland Spring's operations, these fears were unfounded given the first-hand experience of some municipalities.

The municipal support within the policy committee for these bills appears to stem more from a concern about the way water utilities enter into the deals with large water bottlers, rather than from any concern with the companies themselves. There are bills such as LD 238 in the Utilities Committee that seek to add more public transparency and involvement in the decisions of water utilities seeking to sell water to a commercial bottler.

Furthermore, municipal ordinances regulating water extraction have been enacted and have yet to be challenged. Municipal officials pointed to these ordinances to suggest further legislation is not needed.

This fact raises a broader legal issue of what "Home Rule" as a legal doctrine actually means and the Committee spent a fair amount of time exploring this issue. Being a "home rule" state means that municipalities are presumed to have legal authority to undertake an action and do not need specific authorization. Accordingly, supporting legislation which

grants home rule authority is actually an oxymoron; "home rule" is only unavailable when it is expressly preempted or when state-level authority is so extensive that local regulation has been preempted "by implication".

While these bills are certainly municipal-friendly in their intention, they may have a broader negative impact on the doctrine of home rule. That is, by repeatedly passing legislation "recognizing" the authority of municipalities to take a particular action, the legal implications is that such recognition is necessary and the concept of home rule is eroded.

There may be a day when a challenge to municipal water ordinances is successful. But, as MMA often asks the Legislature to wait for a particular problem to materialize before enacting legislation, it may be appropriate to wait for a challenge to municipal action before crafting the appropriate legislative response. That said, if the Legislature is inclined to expand municipal authority, MMA will certainly not resist.