

Natural Resources and Development

On Tuesday, the Natural Resources Committee took testimony on two controversial bills that would impact development in Maine. The bills drew overflow crowds and prompted the Committee chairs to limit testimony to 3 minutes per person. Even with the limit, testimony on the two bills lasted for over 5 hours. This article focuses on the bill that would limit major development projects to municipally-designated “growth zones”.

Site Law Changes. LD 1268, *An Act to Update the Site Location of Development Laws*, was crafted by the Department of Environmental Protection. The bill had several components, the most controversial of which adds a zoning or “locational” component to the decades-old Site Location of Development Law. The DEP’s intent is to fulfill the Site Law’s stated goal of preventing “undue adverse impact” from large-scale development projects. To date, the Site Law has focused on a project’s impact “on site” or close to “on site”, such as storm water run off, traffic flow, etc. The purpose of this bill is to utilize the Site Law to ensure that projects are located in areas that have been “determined appropriate” for significant projects.

In large part, LD 1268 relies on local decisions in answering the question as to where large projects should be located. The bill requires that that these projects only be permitted in locally-designated growth areas. In the absence of a locally-designated growth area, Site Law projects would be permitted in “urban-compact zones” or “Census designated places” or in areas served by a public sewer system. These secondary development areas don’t add considerably to the “growth

zone” area.

However, if a municipality does not have an approved growth zone that is consistent with the Growth Management Act, the DEP could not allow a Site Law project in that municipality.

Along with the Department of Transportation, supporters included a number of non-profit organizations that gener-

ally support “smart growth” legislation, including the Natural Resources Council of Maine, the Conservation Law Foundation, and the Maine Association of Planners. Proponents complained that at least half of all municipalities in Maine do not have consistent comprehensive plans that designate growth zones. They

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The Integrity of the GPA Appropriation

This article is about a bill that MMA’s Legislative Policy Committee asked to be submitted this year that would not allow the Legislature to charge-off as “General Purpose Aid for Local Schools” the personnel costs of 23 Department of Education employees, the personnel costs of 3 Department of Corrections employees, and a \$250,000 annual contract with the University of Maine to, among other things, produce a book each year that maps out Maine’s school districts according to each of the 186 House and Senate legislative districts.

At issue is what it means to actually provide a certain percentage of state resources – 55% for example — for K-12 public education.

The bill is LD 1126, *An Act to Limit the Scope of Miscellaneous Costs within the General Purpose Aid for Local Schools Appropriation*. The bill is sponsored by Senator David Trahan (Lincoln Cty.). LD 1126 had its public hearing on Monday this week and its first work session on Tuesday. The Education Committee has tabled the bill for now.

Based on the discussion thus far, it is

possible that the Legislature will never reach an agreement within itself about what it means to provide 55% financial support for K-12 education with General Fund resources.

There is now one open conversation to abandon, in the name of bluntness, the 55% goal — at least for the foreseeable future. There is another open conversation, in the name of cleverness, to reframe the 55% standard as it was originally defined to suddenly include state appropriations gratuitously made by the Legislature over the years on behalf of retired school teachers so that conformity with the 55% standard can be immediately achieved without effort.

Here’s the background.

It was the Legislature itself that set the 55% goal in 1985 when it enacted the following provision of law:

§15602. Intent

1. Contributions from the General Fund. *“It is the intent of the Legislature to provide at least 55% of the cost of the total allocation from the General Fund revenue sources or a percentage no less*

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DEVELOPMENT (cont'd)

believe development patterns in Maine are contributing to sprawl and need further regulatory controls. They believe bicycle paths and public transit such as trolleys need to be given a higher priority in Maine.

Opposition testimony came from approximately 40 individuals, many from the Western Maine/Franklin County area. Most were representative of Maine's construction industry. Also providing opposition testimony were 3 legislators: Rep. Tom Saviello (Wilton); Rep. Kathy Chase (Wells) and Rep. Gary Knight (Livermore Falls). Realtors, the Forest Products Council, landowners, and MMA also testified in opposition.

The opposition testimony to LD 1268 was heartfelt, frustrated and worried. Many construction companies recounted their current predicament. Ron Savage of Savage Contracting discussed the current challenges in keeping his 40 employees working. The president of Franklin Savings Bank in Farmington noted that the timing of this restriction on development was the worst possible. He said that Western Maine simply lacks the growth zone designations required by the bill and the region is facing major challenges in the current market. He also testified that some of the projects they've financed recently would have been prohibited by this legislation.

Mike White of White Brothers Construction noted that they are "fighting for their lives" and that this bill just makes things more difficult. Danny Shaw of Shaw Brothers Construction in Gorham recounted how they have reduced their employment from approximately 160 down to 100. Mr. Shaw

articulated the sentiment of many opponents when he said "We're scared."

Many opponents also criticized the DEP for failing to reach out to the public before drafting this bill. This criticism is unfair. The DEP released a draft of the legislation months ago. The agency produced a great deal of research on the bill including attempting to identify all municipalities with growth zones, summarizing the last three years of Site Law permitting and compiling statistics on how many projects were in or out of the growth zones.

DEP also conducted a couple of public meetings. DEP acknowledged that more outreach can always be done. However, compared to the other 1,500 bills filed this session, the DEP provided more advanced notice and made publicly available more research material than almost any other bill. In fact, DEP produced maps showing the growth areas in Maine knowing that they would be (and were) ultimately used by opponents to demonstrate the negative impact of the bill.

That said, MMA's Legislative Policy Committee also opposed the legislation. MMA focused on the stark nature of the bill's absolute prohibition on non-residential Site Law projects being developed outside of growth zones. Some of MMA's members with growth zones support the legislation. They appreciate that the state will utilize its permitting authority in a way that reinforces rather than undermines local planning decisions.

However, the majority of MMA's members opposed the bill. Those opposing who had comprehensive plans felt that municipalities possess all the land use planning tools they need to confine commercial development to their growth zones. In other words, municipalities don't need the DEP to do this job for them. Also, while they believe most development should be guided to growth zones, they don't feel all Site Law projects must be located in a growth zone. Furthermore, the state's rules for establishing growth zones have never required the growth zones to be drawn such that they would accommodate all future Site Law projects.

The most ardent opposition came from municipalities without locally-des-

ignated growth zones. In some cases these municipalities had fully engaged in comprehensive planning but ultimately made a conscious decision not to adopt a growth zone.

In fact, this perspective was represented by a few different citizens at the public hearing. One was an employee of Wagner Forest Management, who resides in Roxbury. This citizen noted that his community has a comprehensive plan and that he was on the plan committee. He noted that the plan has worked well without identifying a growth zone. "We feel we have good laws in place to address development and reacted appropriately when something was missing. We may not have been professional planners but we were serious about it. I do not think our town is unique in that sense."

He also stated that: "Maine prides itself on independence and Home Rule is the foundation of that. LD 1268 infringes on that independence with a drive toward centralized planning. Please don't let that happen."

A woman from Madison noted that the Backyard Farms Greenhouse (and its 200 employees) in Madison that produces the tomatoes known "Back Yard Beauties" would not have been permitted under LD 1268. She also directly challenged the testimony of proponents that climate change, energy consumption and responsible development patterns are not a current consideration in rural Maine.

MMA also asked the Committee to step-back and consider the purpose of growth zones in order to understand why the bill's total reliance on growth zones for Site Law permitting is inappropriate. Growth zones are a component of the state's Growth Management Act. Many rural communities in Maine have been experiencing no growth for the past decade. They are losing population, losing jobs, losing civic institutions and fighting not to lose hope.

The bill's understandable goal of wanting to guide development to "appropriate" places does so in a way that says to approximately 250 municipalities in Maine that they are, without exception, not appropriate places for large development projects. It is this absolutist approach that must be addressed if this legislation is going to proceed.

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GPA (cont'd)

than that provided in the year prior to the year of allocation, whichever is greater.”

Some legislators are claiming today that when that “intention” was enacted in 1985, it provided no real definition of how the 55% standard should be measured. A simple reading of the enactment shows that the claim is without merit. The term “total allocation” was a defined term that carried with it each year a specific dollar value. 55% of that value was an easy calculation. When the Legislature enacted that “intention” in 1985, the General Purpose Aid contribution to the “total allocation” was approximately 51%. The 55% goal appeared to be within range. A dozen years later, however, after many years of flat-funding education during and after the 1990s recession, the state contribution was hovering around 43% of the total allocation, the property tax was picking up the bounce, and tax revolts were in the air.

In 2002, MMA supported a citizens’ initiative that moved the 55% standard from an unfulfilled intention to an actual directive to the Legislature. That initiative was adopted by Maine’s voters on June 8, 2004.

Legislators and others are now claiming that the 2004 initiative failed to define what the 55% standard actually meant...that it did not make clear the answer to the question “55% of what?”

Actually, that criticism is also inaccurate. The initiative could not have spelled out the 55% standard more clearly. Here is the exact language of the initiative that the voters adopted.

“Notwithstanding any other provision of law, the Legislature each year shall provide at least 55% of the cost of the total allocation for kindergarten to grade 12 education from General Fund revenue sources.

“For the purpose of this chapter, and until such a time as the Legislature may implement an alternative school funding system, “total allocation” means the foundation allocation for that year, the debt service allocation for that year, the sum of all adjustments for that year and the total of the additional local appropriations for the prior year. In the event the Legislature implements an alternative school funding model that alters the meaning of the terms used in this Title or otherwise makes obsolete the system of allocations and local appropriations established by this Title, the term “total allocation” as it applies to

the mandatory appropriation required by this section means the amount reasonably calculated as the equivalent of this definition.”

Although it is now called Essential Programs and Services (EPS), the school funding model is organized in roughly the same way as the school funding model of 2004. Instead of being called the “foundation allocation”, the core component of the funding model is now called the “operating allocation”, but it serves the same function. The model still contains a “debt service allocation” which serves the same function. The component of the model that used to be called “adjustments” is now called “adjustments and miscellaneous costs”. As a general rule, “adjustments” are parts of the GPA distribution that either go to particular school systems for specific reasons or are paid to third-party agencies (such as special schools) on behalf of particular school systems to support services provided to those school systems’ students. “Miscellaneous costs”, on the other hand, are more often Department of Education expenditures that may serve the greater good of public education in some way but would not be easily defined as “General Purpose Aid for Local Schools”.

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Adjustments and Miscellaneous Costs - Detail	FY 05	FY 06	FY 07	FY 08	FY 09	FY 2010
State Wards and state Agency Clients	37,071,443	36,932,519	37,420,034	38,505,215	39,122,234	40,256,779
Long-Term Drug Treatment Center Adjustment	166,392	175,344	184,632	194,293	182,637	182,637
Maine Policy Research Institute Contracts	150,000	200,000	200,000	225,000	250,000	250,000
EPS Contract	75,000	150,000	250,000	250,000	250,000	250,000
Carpenter Bus Loan Payment	550,000	504,325	498,915	496,685	492,518	-
Regionalization Consolidation Efficiency Assistance	125,000	200,000	200,000	205,800	-	-
Learning Results Accountability	250,000	254,500	260,099	267,642	275,671	-
Learning Results Implementation	1,112,000	1,132,016	1,156,920	7,390,363	3,475,723	1,141,515
Geographic Isolation Adjustments	489,904	-	-	-	-	-
Reimbursement for Private School Services	203,031	-	-	-	-	-
English as a Second Language	2,129,818	-	-	-	-	-
Out of district placements	2,981,064	-	-	-	-	-
Total Adjustments & Miscellaneous Costs (to be included in State Share %)	45,303,652	39,548,704	40,170,600	47,534,998	44,048,783	42,080,931
MLTI Program	-	8,365,847	10,378,853	11,486,124	-	-
Learning Through Technology – (incl. Laptops/positions/Distance Learning)	-	-	-	-	12,585,096	15,241,980
Data Management & Support for EPS (includes GPA positions)	-	122,723	450,000	1,000,000	2,201,239	4,850,952
GPA Team Positions	-	-	288,898	358,737	-	-
Minimum Teacher Salary Supplement	-	-	661,229	1,997,650	1,598,120	1,598,120
NBPT Salary Supplement	-	-	282,000	290,178	298,883	307,551
Job for Maine Graduates	-	-	-	1,630,266	1,635,266	1,675,851
Magnet School – MSSM	-	-	-	1,782,486	1,745,808	2,135,808
Governor Baxter School for the Deaf	-	-	-	6,567,800	5,940,114	5,940,114
Learning Systems Positions for Corrections	-	-	-	-	265,281	285,466
Department of Corrections Positions	-	-	-	-	272,856	304,674
Post-secondary course payments	-	-	-	-	280,000	350,000
Transportation Administration	-	-	-	-	82,370	89,248
Total Adjustments & Miscellaneous Costs (to be excluded in State Share %):	-	8,488,570	12,060,980	25,113,241	26,905,033	32,779,764
Total Adjustments & Miscellaneous Costs	45,303,652	48,037,274	52,231,580	72,648,239	70,953,816	74,860,695

Workable Exemption to Informed Growth Act Crafted

Several bills were submitted to the Legislature this year seeking amendments to the Informed Growth Act (IGA), a law enacted in 2007 to regulate the development of large-scale retail businesses in Maine communities. The five bills submitted this session proposed a variety of solutions, including providing municipalities with a workable exemption to the IGA, amending the law to add other factors that must be included in the impact study of large-scale retail business proposals, or repealing the IGA altogether.

On Monday this week, the State and Local Government Committee whittled down the proposed IGA bills from five to two.

The two bills being kept alive by the Committee are at different places on the continuum. LD 448, *An Act to Modify the Informed Growth Act*, amends IGA to allow municipalities to adopt local ordinances to regulate large-scale businesses that can replace the state-imposed version of IGA. LD 242, *An Act to Repeal the Informed Growth Act*, does what its title suggests.

After much discussion, the Committee voted “ought to pass as amended” on LD 448 by a margin of 10 to 3. As amended by the Committee, the bill would allow a municipality to adopt an ordinance to regulate large-scale retail development, thereby exempting itself from the state’s IGA. In order to qualify for exempt status, the locally-adopted ordinance must: 1) require an independent study of the community/economic impacts of each proposed development; 2) identify the standards used to determine whether the project is detrimental to the community; and 3) allow for feedback on the impact study through a public hearing.

Representatives Andrea Boland (Sanford), Bryan Kaenrath (South Portland), and Jim Schatz (Blue Hill) filed a minority report on LD 448. As proposed in the minority report, the municipal exemption provided in LD 448 would be further restricted by requiring the adopted ordinance to include some of the economic impact standards required in the

IGA, such as job creation. At this time, we are uncertain how many or which economic impact standards will be included in the minority report.

Throughout the Committee’s discussions on both LD 242 and LD 448, the issue of constitutionality was raised several times. Some members of the Committee question whether the IGA is constitutional in the way the required economic impact analysis works to protect small retail developments (those less than 75,000 square feet in size) from the economic impact study required for larger scale projects. The Act requires only large-scale retail business to undertake the effort to illustrate it will not have a negative economic impact on the community and existing businesses.

As a result, the Committee voted to send a letter to the Attorney General’s (AG) Office requesting advice as to whether or not the provisions of the IGA are constitutional. For that reason, at Monday’s work session, the Committee voted to table LD 242, the bill to repeal the IGA, and hold on to LD 448 until the Committee receives the AG’s response.

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In fact, it is the recent expansion of the “miscellaneous costs” category that has triggered the submission of LD 1126.

A rose by any other name. In the table that accompanies this article, there is the detail of the “adjustments and miscellaneous costs” category from FY 2005 through FY 2010 that was provided to the Education Committee by Senator Trahan, as prepared by the Legislature’s Office of Fiscal and Program Review. It is clear by the data presented that the \$30 million growth in this component of “General Purpose Aid for Local Schools” has been in types of payments the state has already been making for years that are now simply being called “General Purpose Aid for Local Schools”.

It is information like this that pokes a few holes in the claims often made by Administration officials and some legislators about the “\$800 million” that has

been “sent to the towns” in increased school subsidy. It is true that between 2005 and 2008 there have been healthy increases in gross school subsidy as the state has attempted to “ramp up” to the 55% level, but not all school systems received strong increases in GPA and not all of those gross increases have actually netted-out into increased school subsidy to any school system.

As the table shows, the mandated \$15 million laptop program did not used to be inside the GPA appropriation but now it is, along with a \$5 million data management program. In 2008, about \$6 million a year that the state regularly provides to the Baxter School began to be called “General Purpose Aid for Local Schools”, along with \$2 million for the magnet school in Limestone. Beginning in 2006, the personnel costs for state employees working for the Department of Education on the task of collecting data from the school systems began to be budgeted as “General Purpose Aid to Local Schools”, and every year thereafter the numbers of state employees moved into the GPA appropriation has grown.

If one were to use the same aggregating-from-zero-and-compounding-over-many-years math that the people use who bandy about the claims of enormous additional school subsidy provided “to the towns”, the increase to the “miscellaneous costs” component of GPA over the 5-year period tops \$105 million.

LD 1126 is searching for the line of justification in the definition of “General Purpose Aid for Local Schools”. The proponents of the bill are not saying that the various “miscellaneous costs” can never be changed from where they were in 2004, but the changes need to meet some standard of justification.

For example, a justification for moving the appropriations for the Baxter and Limestone schools can be articulated. The students in those schools are public school students who would be enrolled in the local schools if they were not enrolled in one of these two special schools financed entirely by the state.

The justification for embedding the personnel costs for 26 state employees in the “General Purpose Aid for Local Schools” appropriation is much more difficult to articulate. Once you cross that line, there is no end to it.

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.)

Agriculture, Conservation & Forestry

LD 1238 – An Act Concerning the National Animal Identification System. (Sponsored by Rep. Hamper of Oxford; additional cosponsors.)

This bill requires the Commissioner of the Department of Agriculture to adopt rules to implement a national animal identification system if federal law makes the system mandatory. Among other provisions of the bill, municipalities would be preempted from adopting any ordinance requiring participation in an animal identification system except to conform to a program established by the Department.

Criminal Justice & Public Safety

LD 1130 – An Act To Clarify the Crime of Obstructing Government Administration. (Sponsored by Sen. Hobbins of York County.)

This bill changes the standards governing the offense of obstructing government administration by defining that offense as the act of recklessly obstructing, resisting, hindering or endangering any public servant performing an official function.

LD 1166 – An Act To Implement the Recommendations of the Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness. (Sponsored by Rep. Priest of Brunswick; additional cosponsors.)

This bill implements several recommendations of a task force charged with studying the interaction of mentally ill people and law enforcement. Among the recommendations, this bill: (1) requires the Maine Criminal Justice Academy (MCJA) to develop minimum policy standards for mental illness and involuntary commitments; (2) requires law enforcement agencies to adopt the pertinent policies by January 1, 2011; (3) requires MCJA to provide training programs covering the involuntary commitment process; and (4) allows mental health workers to provide some otherwise confidential information to law enforcement personnel in limited circumstances.

LD 1187 – An Act To Allow the Sale and Use of Consumer Fireworks. (Sponsored by Sen. Gooley of Franklin County; additional cosponsors.)

This bill repeals the prohibition of the sale of consumer fireworks in Maine and creates a process of issuing permits to retailers of fireworks. The bill also authorizes municipalities to adopt ordinances allowing or prohibiting the sale, use or possession of consumer fireworks within the municipality. The adopted ordinance must provide for a permitting process. A municipal permit may not be issued unless the applicant: 1) is 21 years of age or older; 2) applies for a federal permit; and 3) conforms to the storage and handling requirements outlined in the proposed law. The application must be approved by the municipality's police chief, fire chief and code enforcement officer, if the positions exist. A municipality assesses a fee for the permit.

LD 1224 – An Act Regarding the Operation of County Jails and the State Board of Corrections. (Sponsored by Rep. Crockett of Augusta; additional cosponsors.)

This bill amends law enacted in 2008 creating a unified county-state corrections system in two ways: (1) the bill requires that certain additional elements of the state correction budget be reviewed by the Board of Corrections before the Board makes its budgetary recommendations to the Legislature; and (2) the bill prohibits the construction of any new public or private correctional facility in the state unless a certificate of need for that construction has been issued by the Board of Corrections.

LD 1442 – An Act To Ban Racial Profiling. (Sponsored by Sen. Bliss of Cumberland County; additional cosponsors.)

This bill establishes the practice of racial profiling by any law enforcement officer to be an act of unlawful discrimination. The bill also creates a 13-member Advisory Committee on Racial Profiling which is charged with performing a variety of functions in the effort to supervise the prohibition on racial profiling.

Health & Human Services

LD 1303 – An Act To Improve the General Assistance Program. (Sponsored by Rep. Stuckey of Portland.)

This bill makes two substantive changes to the General Assistance program. The bill increases the index used to calculate the so-called "maximum levels of assistance" from 110% of the Fair Market Rental Values developed by the Department of Housing and Urban Development to 150% of those values. The bill also increases the state's municipal reimbursement obligation for the vast majority of municipalities from 50% of the value of the benefits issued to 80%. The bill also appropriates \$8.8 million from the General Fund for each year of the biennium to cover the cost of these two changes.

LD 1375 – An Act Regarding the Formula for the General Assistance Program. (Sponsored by Rep. Carey of Lewiston; additional cosponsors.)

This bill increases the rate at which the Department of Human Services must reimburse municipalities for their General Assistance expenditures from 50% to a 90% level if the municipality is experiencing unemployment rates that exceed the state's 5-year average.

Judiciary

LD 1353 – An Act Regarding Salary Information for Public Employees. (Sponsored by Sen. Marraché of Kennebec County; additional cosponsors.)

This bill establishes that salary information about public employees on any level of government is confidential with respect to the employees as individuals but is public information with respect to the identified position.

Legal & Veterans Affairs

LD 1169 – An Act To Amend the Election Laws. (Sponsored by Rep. Trinward of Waterville; additional cosponsors.)

This bill makes a number of changes to election law. Among the changes most pertinent to municipal government, this bill: (1) clarifies the application of the various factors the municipal registrar uses to determine if a person is an eligible voter; (2) specifies the various types of documentation that may be used by a voter to verify his or her identity; (3) allows citizens of the U.S. who do not live in the U.S. to register to vote as the residence of either of that person's parents; (4) expands the amount of time the registrar must attend the municipal partisan caucuses before the caucus begins from 30 minutes to one hour during a presidential election year; (5) requires the municipal officers presiding over an appeal brought by a voter whose registration is canceled by the registrar to issue their appeal decision in writing, which must include information regarding the route of appeal; (6) repeals the requirement that votes for write-in

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candidates must include the candidate's municipality of residence; and (7) prohibits the use of stickers to identify write-in candidates. LD 1329 – An Act To Allow a Resort Casino in Oxford County. (Sponsored by Rep. Millet of Waterford; additional cosponsors.)

This bill authorizes the creation of a gambling casino in Oxford County. Among the many provisions of the bill, the casino could only be located in a municipality where the voters have approved the introduction of a casino, and the host community and the casino company would be required to negotiate an agreement that provides for revenue sharing and the security plan for the premises where the gaming devices are located. The bill also provides that 40% of the gross gaming device income must be distributed as follows: 19.5% for economic development purposes split between statewide economic development and Oxford County economic development; 19.5% for transportation split between Oxford County transportation infrastructure and statewide transportation infrastructure; and 1% for the host municipality.

LD 1344 – Resolve, To Authorize a Pilot Project on Ranked Choice Voting. (Sponsored by Rep. Russell of Portland; additional cosponsors.)

This bill establishes a 2-year pilot project overseen by the Secretary of State that includes so-called "rank choice voting" to determine a majority winner in municipal elections involving 3 or more candidates. Under "ranked choice voting", the voters indicate their preference for all the candidates on the ballot in ranked order, and in a series of stages. The least preferred candidates are eliminated and subsequent rounds of voting are allowed to refocus on the emerging preferred candidates. The pilot project would be restricted to no more than 10 participating municipalities.

Natural Resources

LD 1333 – An Act To Establish Climate and Energy Planning in Maine. (Sponsored by Rep. Pingree of North Haven; additional cosponsors.)

This bill is the Climate and Energy Planning Act of 2009. Much of the bill is focused on state agency-level planning and regulatory requirements designed to reduce greenhouse gas emissions associated with new state-level development projects. The bill also directs the Department of Transportation and any political subdivision (county or municipality) responsible for developing transportation plans or projects that are funded with state or federal funds to generally include bicycle and pedestrian ways in those plans and projects unless there are clear reasons why the inclusion of bicycle or pedestrian ways would be inappropriate. This bill also requires the Department of Environmental Protection to amend its rules in such a way to require municipalities to achieve natural stream flow when installing road culverts. The bill also directs the State Planning Office to review and revise its rules, standards and guidelines governing local and regional planning activities to ensure the incorporation of best management practices to reduce the climate change effects resulting from those planning activities.

LD 1399 – An Act Concerning Water Quality in Watersheds. (Sponsored by Rep. Tilton of Harrington; additional cosponsors.)

In response to the state's inability to fully fund the shellfish bed inspection programs within the Department of Marine Resources, this bill imposes a series of water quality protection surcharges on wastewater facility combined sewer overflow licenses, and sanitary overboard discharge licenses. The bill also imposes a \$2 per ratepayer license fee surcharge on all publically-owned wastewater treatment facilities. These revenues are dedicated by the bill to a "Clean Shores" Fund, which is used to fund 3 positions within the Department of Marine Resources, as well as provide grants to

municipalities for the purpose of abating pollution in shellfish growing areas.

State & Local Government

LD 1425 – An Act Regarding Payment to Municipal and Quasi-municipal Entities for Emergency Response to Hazardous Materials Incidents. (After Deadline) (Sponsored by Rep. Thibodeau of Winterport; additional cosponsors.)

This bill provides that when a municipal or quasi-municipal hazardous materials response team is sent to a property to respond to a hazardous materials discharge, the property owner or lessee is responsible for the costs of the municipal services.

Taxation

LD 1213 – An Act To Amend the Homestead Exemption for Certain Veterans To Include Certain Military Personnel Stationed at Guantanamo Bay. (Sponsored by Rep. Giles of Belfast; additional cosponsors.)

This bill expands the list of veterans eligible to receive the \$6,000 veterans' property tax exemption to include veterans who were stationed in Guantanamo Bay in Cuba between 1961 and 1964.

LD 1314 – An Act To Reform and Lower Maine Taxes. (Sponsored by Rep. Crockett of Augusta; additional cosponsors.)

This bill comprehensively reforms Maine's tax code in the following ways: (1) allows persons eligible for the Circuitbreaker property tax and rent rebate program to apply for those benefits on the state income tax form as a refundable tax credit; (2) reduces the highest marginal income tax rate from 8.5% to 7.5%; (3) expands the authority of a municipality to assess service charges to recover the costs of providing municipal services to all tax exempt institutions except federal property, municipal property and churches; (4) requires all non-governmental tax exempt institutions to reapply periodically for their tax exempt status according to a staggered schedule; (5) establishes a 13-member commission to determine a method of calculating the value of municipal services provided to tax exempt institutions ("municipal cost component"); (6) expands the sales tax base to include broad categories of services currently excluded from taxation (e.g., amusement and recreation services, personal services, transportation services purchased by consumers, and consumer purchases of memberships to social organizations); (7) repeals a broad range of sales tax exemptions; and (8) increases the sales tax on short-term rentals from 7% to 10%.

LD 1367 – An Act To Increase the Homestead Property Tax Exemption. (Sponsored by Rep. Cebra of Naples; additional cosponsors.)

This bill allows the legislative body of any municipality to vote to increase the homestead exemption in that municipality from \$13,000 in value to \$25,000.

LD 1368 – An Act To Broaden and Increase the Sales Tax, Increase the Earned Income Tax Credit and Amend the Application Process for the Circuitbreaker Program. (Sponsored by Rep. Watson of Bath; additional cosponsors.)

This bill amends Maine's tax code by: (1) expanding the sales tax base by including amusement and recreational services and candy and snack foods; (2) increasing the general sales tax rate from 5% to 6% and the meals and lodging sales tax rate of 7% to 8%; (3) increasing the state's earned income tax credit (EITC) from 5% of the federal EITC to 25%, and making the EITC refundable, which means its provided as a rebate if there is no income tax liability; and (4) making it possible to apply for the Circuit Breaker property tax and rent rebate benefits as part of the income tax filing form.

LD 1381 – An Act To Allow Counties To Provide Property Tax Relief by Enacting a County Option Meals and Lodging Tax. (Sponsored by Rep. Flemings of Bar Harbor; additional cosponsors.)

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HOPPER (cont'd)

This bill allows the voters of any county to adopt at referendum a local option sales tax of up to 2% on meals and lodging transactions occurring within the county. 75% of the revenue generated by the meals and lodging tax must be distributed to the county and used to reduce the property tax assessment. The remaining 25% must be deposited in the state's General Fund.

LD 1392 – An Act To Promote Economic Development and Reduce Reliance on Automobiles through Transit-oriented Tax Increment Financing Districts. (Sponsored by Sen. Bliss of Cumberland County; additional cosponsors.)

This bill expands the allowed program costs within a Tax Increment Financing agreement (TIF) to include the costs related to transit-oriented development districts, the development of which would be allowed both within and outside of the TIF district provided certain land use zoning and population densities are met. The transit-oriented development districts are development areas or corridors that employ transportation systems in which people travel by means other than their own vehicles in order to access bus stops, bus stations, train stations, ferry landings, shuttle terminals, etc.

LD 1463 – An Act To Provide Equitable Property Tax Relief To Maintain Traditional Communities. (Sponsored by Rep. Percy of Phippsburg.)

This bill allows a municipality to establish an arrangement with a "natural resources business" whereby the natural resources business would grant to the municipality a certain type of easement that ensures that no development other than development related to "natural resources support" occur on the property in exchange for the municipality returning to the business a certain amount of its property taxes as support. The bill also authorizes municipalities to adopt ordinances that would allow homeowners 65 years of age or older to make local application for deferral of their property taxes. The deferred taxes of qualifying homeowners would be recoverable upon sale or transfer of the homestead property. The bill also makes "natural resources support businesses" eligible for Pine Tree Zone benefits. Natural resources businesses are defined as businesses that make a substantial contribution to agriculture, fishing, forestry or ecotourism.

Transportation

LD 1094 – An Act To Enhance Safety at Construction Sites by Regulating Open Trenches. (Sponsored by Rep. Connor of Kennebunk)

This bill requires an excavator to mark and erect a barrier around an unattended excavation to prevent a person, animal or motor vehicle from unintentionally falling into the excavation.

LD 1190 – An Act To Amend the Motor Vehicle Laws. (Sponsored by Sen. Damon of Hancock County; additional cosponsors.)

This bill makes a number of amendments to Maine's motor vehicle registration laws. Of municipal interest, this bill amends the system whereby the motor vehicle excise tax on trucks over 26,000-lbs. is based on the sales price rather than the list price. The bill limits that arrangement to just the first 5 years of the truck's registration and then moves the excise tax base for those vehicles back up to the list price. Because municipalities are reimbursed for the excise tax revenue they lose because of the sales price versus list price system, the effort of this change would be to discontinue reimbursement after the 5th year of registration because the municipality would then be collecting big-truck excise taxes on the list-price base.

LD 1341 – An Act To Reform Maine's Motor Fuel Tax Laws. (Sponsored by Rep. Crockett of Augusta; additional cosponsors.)

This bill restructures the state excise tax on motor fuels to repeal the annual state inflation-based semi-automatic increases to the

excise taxes and replace that system with a price-based adjustment system based on the average retail price of motor fuels in New England.

Utilities & Energy

LD 1348 – An Act To Provide Grants to Public Educational and Municipal Entities for Feasibility Studies of Renewable Energy Projects. (Sponsored by Rep. Adams of Portland.)

This bill directs the Public Utilities Commission to establish and administer a program to provide grants to schools and municipalities to conduct feasibility studies for renewable energy projects to be developed on public property.

LD 1349 – An Act To Streamline Ratemaking for consumer-owned Water Utilities. (Sponsored by Rep. Blanchard of Old Town; additional cosponsors.)

This "concept draft" bill proposes to give consumer-owned water utilities the authority to decrease or increase its rates between 3% and 5% without those changes being subject to review and approval of the Public Utilities Commission.

LD 1350 – An Act To Establish the Maine Transmission Mitigation Trust Fund. (Emergency) (Sponsored by Rep. Martin of Eagle Lake; additional cosponsors.)

This bill creates the Maine Transmission Mitigation Trust, which manages the Maine Transmission Mitigation Trust Fund. The revenue from the imposition of a new state excise tax of \$4.25 per megawatt hour on certain high-voltage electric transmission property is deposited in the trust fund. The trustees of the trust shall distribute 20% of the trust fund, up to \$10,000,000 annually, to municipalities that have submitted winning bids for projects to install underground utility infrastructure. The remainder of the trust fund must be paid to Maine electricity ratepayers in proportion to each customer's purchases of electricity transmitted over the state's transmission and distribution utilities.

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, April 20 HOLIDAY

Wednesday, April 22

Judiciary

Augusta Civic Center, 9:00 a.m.

Tel: 287-1327

LD 1118 – An Act To Expand Rights for Maine Families.

Thursday, April 23

Labor

Room 220, Cross State Office Building, 1:00 p.m.

Tel: 287-1333

LD 1292 – An Act To Provide More Transparency and Protection for Public Employees in the Laws Governing the Maine Public Employees Retirement System.

Committee Addresses Petition Certification Deadlines

Although issues that impact the responsibilities of municipal clerks are generally reviewed by the Legal and Veterans Affairs Committee, the State and Local Government Committee recently held a public hearing and work session on an elections-related issue.

LD 1145, *Resolution, Proposing an Amendment to the Constitution of Maine to Amend the Time Frame for Towns to Certify Citizen Initiative and People's Veto Signatures*, is sponsored by Rep. Meredith Strang Burgess of Cumberland. LD 1145 would send to the voters for ratification an amendment to Maine's Constitution extending the time municipal clerks have to certify signatures on citizen initiated petitions. As proposed, the signature certification time allotted for a people's veto would be extended from 2 to 12 days. The extension would be from 5 to 15 days for direct initiatives. To put the impact of the proposed change into perspective, in the last year municipal election officials statewide reviewed over 340,000 signatures on five different direct initiatives.

While simple in concept, the bill raised several complex timing issues as

the both the citizen's veto and direct initiative processes are embedded in timelines that impact the circulators, municipal election officials, the Secretary of State and the Legislature. In order to get to the bottom of the issue, the Committee relied on guidance provided by the Deputy Secretary of State, Julie Flynn.

At the work session, Deputy Secretary Flynn provided information outlining some of the timing issues associated with the bill as printed. At the request of the Committee, she made recommendations for providing the clerks with additional time to certify initiated petitions.

As proposed by Secretary Flynn, the timeline for certifying direct initiatives would be increased from 5 to 10 days. To accomplish this goal without impacting the amount of time circulators have to collect the necessary signatures, the deadline for submitting the initiated petitions to the Secretary of State's Office would also be extended by 5 days. For example, under the timelines currently provided for in Maine's Constitution, the deadline to submit collected signatures to the Secretary of State is on the

50th day after the convening of the Legislature in its first session (odd-numbered year), and the 25th day after the convening of Legislature in its second session. As proposed by Secretary Flynn, these deadlines would be extended to the 55th day in the first session and the 30th day in the second session.

Based on the information provided by the Deputy Secretary of State, the Committee decided to keep the existing 2-day certification timeline for the people's veto process. Considering that the signature submission date is based on the Legislature's adjournment date, there was no possible way the clerks could be provided more certification time without limiting the amount of time circulators would have to collect the signatures. The Committee felt that the 90-day window of opportunity under the people's veto process was already tight enough as is, without further limiting signature collection days.

The Committee unanimously voted "ought to pass as amended" on LD 1145, incorporating the Secretary's recommendation to extend the certification timeline to 10 days for direct initiatives.