

## Education Committee Takes Input on School Reorganization Law

(Note: This article was written with the assistance of Steve Tatko, a Colby College student from Willimantic who is following the Education Committee's work this month as part of his "Jan Plan" program with the College.)

Before the "cloture" deadline last October, 44 legislators submitted 65 bills designed to tweak, modify, significantly amend or repeal the school consolidation law enacted in 2007. Legislative leaders, using their authority, refused to admit any of those bills into the session. Instead, the Education Committee was charged with developing a bill that would comprehensively address the problems with the school consolidation law that have become obvious over the last several months as the local Reorganization Planning Committees have struggled with its implementation.

### Department's recommendations.

On Thursday last week, the Education Committee heard from Susan Gendron, the Commissioner of the Department of Education, who presented the following list of proposed changes to school consolidation law.

- Clearly identify the authority, if any, that can be delegated to local school committees as part of any school reorganization plan. The Department's recommendation is that the law establish the local school committee's power authority as "advisory" only.

- Clearly identify the procedures by which a municipality within a newly consolidated school district may raise money and direct spending of those funds to supplement the programs of its local elementary school.

- Consider expanding the authority

of a municipality to raise supplementary funding for the elementary school to the high school level as well.

- Harmonize the conflicting requirements regarding the mandatory language for the referendum ballot to approve or reject the consolidation plans.

- Create the necessary language to allow all school systems to remain legal operating systems if their voters elect to opt out of any consolidation plan.

- Allow municipalities to withdraw from CSDs or SADs in order to consolidate with other school administrative units.

- Require voter approval for all proposed "alternative plans" as well as for all proposed consolidation plans.

- Address a number of issues associated with the newly-created budget validation process, including:

- Defining "legislative body" in order to resolve conflicts with local charters.

- Defining with more clarity the maximum number of days between the budget adoption vote and the budget validation referendum.

(continued on page 2)

### Budget Validation Referendum Process May Not Be Delayed

Last week's edition of the *Legislative Bulletin* described the Education Committee's intention to pass on to the full Legislature for emergency enactment its "ought to pass" recommendation for LD 1932, *An Act to Amend the Laws Regarding School Funding*.

The main thrust of LD 1932 was to allow for the local negotiation and development of the cost sharing arrangements for newly reorganized school systems, rather than the fixed cost sharing formula established in the 2007 school reorganization law.

The Committee also tacked onto LD 1932 a one-year delay in the implementation of the mandatory school budget referendum process. Under the 2007 law, all school budgets in 2008 would have to be adopted using the so-called "budget validation" process. Under the Committee's amendment to LD 1932, that mandatory process would be delayed until 2009.

Since the one-year delay was part of a bill originally designed to be quickly enacted by the Legislature as "emergency" legislation, the word quickly got out that the school budget validation process was going to be put on hold for a year.

It should be remembered, however, that in order for a bill to become immediately effective as emergency legislation, it needs to receive supermajority, two-thirds support in both the House and Senate.

Because of a number of controversies surrounding the school consolidation law and as many disagreements about how that law should be fixed, it appears that the Legislature is not able to garner supermajority support for LD 1932, at least at the moment. Therefore, LD 1932 will not be quickly enacted as emergency law.

(continued on page 8)

– Establishing a more workable distribution procedure for absentee ballots for the budget validation referendum.

– Establishing a single referendum question for the budget validation process so that the warrant and ballots can be processed in a timely manner.

– Creating an authority for municipalities to commit their taxes in a timely manner even if the school budget has not been finally adopted by July 1.

– Building the cost of one budget validation referendum vote into the EPS funding model, resulting in some state financial participation in those costs.

#### **Legislator’s recommendations.**

Against the backdrop of the “fix-up” proposals recommended by the Department of Education, the Education Committee held a public forum on Friday last week for the purpose of allowing the legislators who had submitted fix-up bills to present their various ideas to the Committee. Some of the legislators presented the same ideas they had submitted as a bill last October. Others presented new ideas. This is what the Committee heard:

Rep. Bruce MacDonald. Amend the law to allow the consolidation of school administrative services without necessarily consolidating the school governance structures...one of many suggestions to allow the school union structure to be treated just as compliant with the school reorganization law as the school district structure.

Rep. Herb Clark. (1) establish that in any area where the population density is less than 100 inhabitants per square mile, the minimum required size of a consolidated school system is 1,200 students rather than 2,500 students; and (2) extend the deadlines for the final submis-

sion of reorganization plans and the referendum votes.

Rep. Robert Eaton. (1) Establish more flexible requirements regarding the minimum number of students; (2) allow the school union structure to be considered a compliant consolidation; and (3) extend the reorganization plan development and approval time line.

Rep. Peter Edgecomb. (1) Replace financial penalties with financial incentives; and (2) allow the school union structure to be considered a compliant consolidation.

Rep. David Farrington. Two proposals regarding the budget validation process: (1) allow the municipalities that have established a school budget adoption process by charter to follow the charter process rather than the mandatory statutory process; and (2) require the budget validation referendum process only when the school budget adopted by the legislative body exceeds the Essential Programs and Services (EPS) allocation for that school, or when the budget exceeds EPS by a certain percent (e.g., 5%).

Sen. David Hastings. Codify in law that when the population density of the region is less than 100 inhabitants per mile, the minimum student count for any reorganized school system is 1,200 rather than 2,500.

Rep. Howard McFadden. (1) amend EPS law regarding labor market areas or delete the labor market adjustments altogether; and (2) amend the school consolidation law regarding the disposition of debt service and the disposition of school property to make sure the obligations regarding pre-existing local debt are not transferred.

Sen. Peter Mills. Authorize the consolidation of three isolated school systems (SAD 12, SAD 13 and Greenville), even though the total student count is approximately 1,200.

Rep. David Mirimant. (1) create a process that allows municipalities to withdraw from a consolidated school district; (2) allow for more flexibility in the local development of the weighted voting parameters that would be applied to a consolidated school district’s board of directors; and (3) either lessen the penalties or extend the reorganization time lines.

Rep. Jim Schatz. Five proposals: (1) repeal the law; (2) allow the school union structure to be considered a compliant consolidation; (3) extend the reorganization time lines; (4) eliminate the penalties for non-compliance; and (5) somehow organize the structure of school choice in consolidated systems that have multiple high schools.

Rep. Hannah Pingree. Retain a capacity for local governance of local elementary schools and allow the school union structure to be considered a compliant consolidation.

Sen. Kevin Rave. Create a procedure that governs the procedure by which a municipality can withdraw from a school district.

Sen. Richard Rosen. Remove the language in the current school consolidation law that requires all personnel contracts to be moved forward into the newly consolidated school districts...allow the statute to be silent on that subject.

Sen. Roger Sherman – Change the definition of “efficient, high-performing” schools systems to allow school systems without three separate buildings to qualify.

Rep. Kim Silsby – (1) Create an appeal process for school districts to be able to voice concerns about any determination of compliance. (2) Eliminate the budget validation referendum procedure and leave intact existing systems for adopting school budgets.

Rep. Sharon Treat. (1) Give financial aid to deal with increased clerical costs due to consolidation. (2) Ensure that the disposition of existing debt is appropriately allocated.

Sen. Carol Weston. Allow the school union structure to be considered a compliant consolidation.

Sen. Bruce Bryant. Give participants in a consolidation planning group more organizational scenarios to work with than those provided in current law.

Rep. Ben Pratt. Move the deadline ahead to ensure enough time for all the actions that need to occur.

Rep. Chris Babbidge. Establish a maximum mill rate standard whereby no municipality within a consolidated school district would have to levy a mill rate for education that is greater than

(continued on page 3)

### **Legislative Bulletin**

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

Subscriptions to the *Bulletin* are available at a rate of \$20 per calendar year. Inquiries regarding subscriptions or opinions expressed in this publication should be addressed to: *Legislative Bulletin*, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330. Tel: 623-8428. Website: [www.memun.org](http://www.memun.org)

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

twice the mill rate effort of any other participating municipality.

Rep. Sean Faircloth. Establish a transitional system to deal with the teacher pay scale issue regarding a teacher in a newly consolidated school system who is transferred to another school system within the new school district before the contract disparities are harmonized.

**“Facilitator” recommendations.**

On Wednesday this week the Education Committee organized a forum to hear from several former school superintendents or special education managers that have been hired by the Department of Education to provide facilitation services to the Reorganization Planning Committees. The forum was for the purpose of learning what the RPCs are actually experiencing in the way of legal or technical obstacles to school reorganization that should be addressed in the Committee’s fix-up bill.

The list of ideas expressed to the Committee by the facilitators included:

- Passing the law immediately that would allow for the local development of cost sharing arrangements (LD 1932);
- Giving the Commissioner more discretionary authority with respect to her rulings on the compliance of proposed reorganization plans;
- Extending the deadlines for plan development, either generally or on a case-by-case basis;
- Allow for the disposition of school property to be negotiated rather than automatically transferred to the new school district;
- Reduce expectations of short-term property tax savings;
- Prohibit reconfiguration of proposed school reorganizations once the planning process gets started;
- Create financial incentives to reorganize in addition to the financial penalties;
- Define the powers and duties of the local school boards working within the reorganized school district.

In addition to hearing the facilitators’ ideas regarding proposed changes to the law, an observer at this forum quickly learned about each facilitator’s personal points of view and policy positions, which were anything but neutral. The four facilitators who made presentations to the Committee were either re-

tired school superintendents or special education administrators, and here is a sampling of their expressed predispositions:

- One facilitator complained about the huge learning curve associated with the process because RPC members lack sufficient background in educational matters;
- With respect to the issue of local school boards working within the new school district, one facilitator said that any such local authority would be nothing but an obstacle to the efficiency goals of the consolidation law, and another said that such a system should be prohibited because of “chart of accounts” problems. The consensus among those two facilitators was that that no local board should be given anything beyond an advisory authority;
- Two facilitators strongly disparaged any form of school organization that incorporates any form of a school union structure;
- One facilitator described local officials as having an outdated, 1950’s mentality when they resist relinquishing the property purchased and owned by the municipality and transferring it to the new school district.

**MMA recommendations.** Also on Wednesday this week, the Committee took testimony from the various advocacy groups (Maine School Management Association, Maine Education Association, Maine Municipal Association) involved with implementing this law.

MMA’s testimony was designed to thread the needle between two competing camps within the Legislature regarding the school consolidation issue. The strong proponents of the consolidation law are willing to fix all technical problems with the original legislation, but other than opening up locally-developed cost sharing arrangements, they do not want to significantly change the fundamental elements, standards, time frames, or penalties that make up the 2007 law. The other camp is interested in a deeper restructuring of the school consolidation law, specifically to allow a modified school union structure to be considered a “compliant” school consolidation.

Along the lines of the thread-the-needle strategy, MMA suggested that the Committee include in the fix-up bill:

- All the elements of LD 1932 (if LD 1932 is not going to be immediately enacted) such as the local development of cost sharing arrangements, etc.

- Both clarity and substance to the roles of local school boards within the new school districts;

- Procedural guidance regarding the current element of the law authorizing municipalities to provide supplemental appropriations to the local elementary schools;

- Municipal authority to retain ownership of the school property the municipality has purchased, built, operated and maintained over the years, subject to the execution of management contracts with the new school district;

- A range of specific technical corrections to the budget validation process;

- The municipal authority to commit property taxes in the event a school budget has not been adopted by a certain date because of the budget validation process;

- A single version of the ballot language to approve or reject a proposed school reorganization (as opposed to the two competing versions in current law), avoiding on the electoral principle of neutrality in the ballot box the version in current law that is overtly designed to lead to a certain outcome;

- Rewriting the so-called “53.86%” penalty to be applied to non-compliant school systems in 2009 so that it is coherent, verifiable by an average person, and can be accurately calculated in a timely manner for the school reorganization referendum votes;

- Amending the language in the current law that inaccurately makes it appear that the newly reorganized school system is legally barred from displacing any teachers or students; and

- Clearly defining the administrative and special instructional services that must be regionally provided in any school union structure, and allowing for the union-wide voters to approve that budget.

It appears at this point that the Committee is going to spend the next couple of weeks assimilating all this information and crafting the fix-up bill. Even if successfully crafted and enacted, the fix-up bill will not likely be enacted as “emergency” legislation.

# Publishing Legal Notices

In commenting on a proposal to establish a BRAC-like commission to do the work of the Legislature to find ways to cut state government spending, the Portland Press Herald editorialized last week (1/7/08) that: *“The commission may offer legislators a temporary work-around for their present fiscal predicament, but no one should think it is anything other than that. Any long-term solution remains in their hands, and no one else’s.”* Representative Terry Hayes of Buckfield has proposed one such long-term solution, which is now in the hands of the State and Local Government Committee, in the form of LD 1878, *An Act to Generate Savings by Changing Public Notice Requirements*.

As originally proposed in LD 1878, starting on July 1, 2009 the state would be required to post all legal notices online, unless the Commissioner of Department of Administrative and Financial Services authorized the posting in a newspaper. According to information provided to the Committee by the Secretary of State’s office, spending for the publication of rule-making related notices in Maine’s five largest newspaper increased by nearly 41% between 2004 and 2007. According to the Secretary’s office, in 2004, \$383,367 was spent to publish 770 rule making related legal notices, an average of \$498 per notice. In 2007, the Secretary’s Office spent \$511,083 to publish 730 notices, an average of \$700 per notice.

The bill also provides qualifying communities an opportunity to advertise legal notices exclusively in alternative newspapers upon the adoption of a publication policy by the municipal officers. The proposed change would allow legal notices to be exclusively posted in the alternative newspapers, such as advertising shoppers, provided the newspaper of general circulation had a subscription rate of less than 30% of the residents in the community. The alternative newspaper would have to be distributed to all households at a cost no greater than the newspaper of general circulation. The municipality would be required to retain a record of all legal notices published. In addition, the alterna-

tive newspaper would have to have a system for archiving past editions of the newspaper.

The issue being address in LD 1878 is the restrictive publishing notice requirements of Title 1 MRSA, section 601 that require public notices to be published in newspapers mailed second class; that is, the state’s largest daily and weekly newspapers. The problem with this requirement is that it prevents municipalities from using newspapers that are mailed in bulk, such as advertising shoppers, to provide public notice, except as a redundant additional expense to the municipality.

Although the bill had its public hearing last May (2007), it was carried over into the second session to allow the bill to be refined. At the 2007 public hearing on the bill, the most vocal opponent to the bill was the newspaper industry. With respect to the element of the bill requiring state notices to be provided electronically, the newspaper industry raised concerns that citizens would be required to go look for the necessary information on-line, rather than having it readily available in the newspaper. With respect to the element of the bill allowing qualifying municipalities to use alternative resources, the newspaper industry raised a reliability-of-delivery concern with the use of advertising shoppers, which are mailed third class. The US post office has three days to deliver materials mailed third class, while second-class mail must be delivered on schedule.

At a work session held on Wednesday this week, Rep. Hayes provided the members of the State and Local Government Committee with an amended version of the bill. The amendment simply requires that the format used to publish state notices of rules in newspapers be reduced in length. The reduced copy would provide readers with basic information and a website address and telephone number for more information. The detailed information that is currently provided in the newspaper notice, such as statutory or federal authority, would be posted on the Internet or provided in writing upon request. In addition, the amendment authorizes, but does not re-

quire, agencies to post notice of adopted rules in a newspaper. The amendment did not change the municipal element of the bill.

When asked, the newspaper industry representative informed the Committee that the newspaper industry could not support the amended bill. While the industry found the amendment well intentioned, their lobbyist expressed concerned with the mechanism used for determining what information was and was not included in the abbreviated notice to be posted in the newspaper. According to the newspaper lobby, it is better to post all of the information. The industry is concerned that the public might not take note of a particular notice because one element of the notice, which they have come to rely on, is no longer included in the version published in the newspaper.

In addition, the newspaper industry expressed its ongoing opposition to the municipal element of the bill. It was pointed out that some of the state’s largest newspapers have offered publication rate reductions to communities where the number of paid subscriptions are low in order to help offset the cost of duplicative postings of public notices in alternative newspapers.

The newspaper industry’s opposition to the amendment touched a nerve with some members of the Committee. Senator Elizabeth Schneider of Penobscot County expressed frustration with the newspapers’ continuous editorial attacks regarding the inability of the Legislature to cut spending and find sustainable sources of savings, while simultaneously opposing an initiative that would responsibly result in the called upon savings. The newspapers’ response to this observation was only that it was the responsibility of the newspapers to “criticize public people”.

In what could be called a peace offering, the newspaper industry mentioned its recent efforts to negotiate reduced publication rates with legislative branch officials in the posting of public hearing and work session notice information. Although municipalities with low residential subscription rates are currently benefiting from reduced rates, it looks like there may be an opportunity for other communities to negotiate lower

*(continued on page 6)*

# Clam and Mussel Conflict

The Marine Resources Committee began 2008 in much the same fashion that it began 2007 — with a committee room full of frustrated clammers. Approximately 50 members of the clamming industry came to the State House to support two pieces of legislation, LD 2006, *An Act to Give Municipalities Control of Mussels Located in the Intertidal Zones* (sponsored by Sen. Raye, Washington Cty.) and LD 2038, *An Act to Facilitate the Timely Reopening of Closed Clam Flats* (sponsored by Rep. Gerzofsky, Brunswick).

LD 2006, as drafted, would have added mussels to the existing list of shellfish that municipalities with shellfish conservation programs may regulate in the intertidal zone. The motivation for LD 2006 stems from a conflict between clammers and those who harvest mussels by means of “dragging”. This conflict has apparently been brewing for some time in Washington County. The epicenter of this conflict is the Town of Gouldsboro.

The concern on the part of the clammers is that when a mussel dragger harvests an intertidal area by dragging a blanket of chains along the flat, they leave behind a wake of destroyed clams. Many municipalities have spent years working to conserve and protect these intertidal zones for clammers and others. A good portion of that work has been reseeding the areas. The proposal therefore would allow these municipalities to restrict mussel draggers from certain areas of the intertidal zone so as to protect clam-flats.

The Department of Marine Resources (DMR), and several mussel draggers expressed opposition to the printed bill. Their concern is that marine life in the intertidal area is a state resource and giving complete control over the resource to municipalities is disconcerting to them. Furthermore, there are approximately 26 licensed mussel harvesters in Maine and it is believed that only a portion of those are actively harvesting. Thus, a mussel dragger is a very distinct minority in the 75+/- communities with municipal shellfish conservation programs.

Fortunately, a compromise appears

on the horizon. DMR proposed an amendment to the bill that garnered nearly universal support from both proponents and opponents — although some significant details need discussion.

The compromise proposal is a “joint-management” model where both the State and municipalities would have some authority over mussel dragging in the intertidal zone. Municipalities with shellfish management programs would be given authority to limit the harvesting of mussels in the intertidal zone “to the degree necessary to support the municipal shellfish conservation program.” DMR testified that its expectation is that the towns would work with DMR to come to an agreement over the boundaries of these areas.

While many mussel draggers supported this compromise, they prefer giving this authority to close areas to DMR rather than to municipalities. In fact, a carryover bill, LD 1958, *An Act To Make Marine Resources Management More Responsive* was drafted to give DMR this authority. It will be revisited Monday, January 14, 2008.

DMR’s role in the “joint-management” compromise would be the authority to issue permits allowing mussel harvesting within these zones, but only after DMR received the “*advice of the municipality.*” Rep. Ed Mazurek (Rockland) specifically asked if the DMR would issue these permits in the otherwise off-limit zones without the consent of the municipality. DMR responded that it would not.

It appears that the Marine Resources Committee is likely to take some action on this topic. The key questions for the Committee are: (1) who will have authority to limit mussel dragging in these clam zones, the state or municipalities, (2) what limits on this authority will be imposed, and, (3) by what process and under what circumstances will permits be issued to allow mussel dragging in these zones.

The widely praised compromise evenly divides authority between the state and municipalities. The Committee may want to avoid the temptation to try and legislate away everyone’s con-

cerns. It may simply take a few years of implementation before anyone knows if there are problems that need to be solved with the proposed amendment.

The second bill, LD 2038, is the latest volley in a simmering feud between local clammers and DMR regarding the speed with which DMR reopens an area for clamming that has been closed. In particular, the slow pace at which flats are reopened by DMR frustrates many clammers. One of the alleged reasons for this slow pace is because DMR lacks the funds to conduct the water quality tests to establish that the area is in fact clean and safe.

LD 2038 would allow municipalities to submit the necessary water quality monitoring data to DMR to help facilitate the reclassification of a clam flat. In other words, this bill is an opportunity for the state to ask municipalities to voluntarily help bear the cost of this now state-funded obligation.

Last session the Legislature passed a Resolve to conduct an independent review of the procedures of the public health division within the Department of Marine Resources. A particular goal of the review was the water quality testing protocol used by DMR. This “peer review” has been conducted and the report will be reviewed by the Marine Resources Committee on Monday (January 14).

In addition to the sponsor, Rep. Gerzofsky, other legislators who testified in support of the bill include Rep. Pieh (Bremen), Rep. Webster (Freeport) and Senator Benoit (Sagadahoc). There was testimony in support from Doug Kelleher president of Micro Technology, Inc., an animal health testing a lab in Richmond, Daphne Warren, president of Katahdin Analytical Services, a lab in Scarborough, Sebastian Bell executive director of the Maine Aquaculture Association (who indicated the issue is important for industries beyond clamming), Chad Coffin, president of the Maine Clammers Association; a few dozen local officials/shellfish committee members and harvesters from Brunswick, Scarborough, Waldoboro, Harpswell, Freeport, West Bath, Machiasport, and Thomaston.

The objection to allowing municipalities to submit water quality testing

(continued on page 6)

# Supplemental Budget

On Thursday this week, the Governor's FY 08-09 Supplemental Budget was unveiled. Municipal officials interested in reviewing the budget can do so on the Bureau of the Budget's website: <http://www.maine.gov/budget/budgetinfo/supplementalbudget.htm>. Although MMA has not completed its review of the budget document, a cursory examination leads us to believe that the Governor's supplemental budget as proposed does not target municipal programs. Setting aside the unknown financial impacts of the yet-to-be released county jail consolidation proposal, the Governor appears committed to not raising any broad-based taxes - including the property tax - to balance the state budget shortfall.

What follows are four issues of municipal interest in the proposed budget that we identified during the first read-through.

- General Purpose Aid for Education (GPA). As originally adopted by the Legislature, FY 09 GPA appropriations were slated for \$1.020 billion. As proposed in the supplemental budget, FY 09 GPA appropriations are booked at \$1.017 billion, a \$3.3 million reduction.

- Essential Programs and Services (EPS). In addition to the adjustment in state support for K-12 education, there are changes proposed to some internal components of the EPS formula used to determine per pupil costs. The amendments appear to provide greater weight to schools that educate students with limited English proficiencies, while reducing the impact the number of economically disadvantaged students has on each school's per pupil cost figure.

- Community Corrections Funds. The supplemental budget deappropriates the entire FY 09 county community correction appropriation. The \$5.6 million appropriation would otherwise offset the cost to the property taxpayers for county jails. The budget document suggests that the FY 09 appropriation is unnecessary because of the Governor's county jail consolidation plan, which that has yet to be revealed.

- General Assistance (GA). The biggest surprise in the supplemental budget

bill is a \$1.2 million deappropriation from the state's share of the General Assistance program. To achieve the savings, starting on July 1, 2008 individuals receiving federal-state Temporary Assistance to Needy Families (TANF) assistance would be categorically ineligible to receive any form of regular or emergency General Assistance. Because General Assistance costs are typically shared on a 50%-50% basis between the state and each municipality, this change would presumably have a similar \$1.2 million reduction on the municipality's share of the program if it is realistic to expect that the delivery of emergency assistance could be cut off.

## LEGAL (cont'd)

rates as well. If it's good for the state, it should be good for the municipalities. If your community believes it is paying too much to publish public notices, we encourage you to engage in negotiation efforts with your municipality's "newspaper of general circulation".

After much discussion, the State and Local Government Committee voted "ought to pass as amended" on LD 1878 by a margin of 10 to 1, with Rep. James Schatz of Blue Hill casting the sole dissenting vote, who objected to the elements of the bill providing municipalities with cost-effective, notice-posting options.

Coincidentally, the State and Local Government Committee was not the only Committee discussing the public notice publication issue. On Wednesday, the Marine Resources Committee held a public hearing on LD 2129, *An Act to Make Clam Flat Status Notification More Efficient, Cost-effective and Economically Beneficial to the Shellfish Industry*. The bill, sponsored by Rep. David Webster of Freeport, proposes to use the Department of Marine Resources' website for notifying shellfish harvesters of clam flat openings and closings, thereby repealing existing rules requiring the Department to publish the notices in a newspaper.

Shellfish industry professionals

unanimously supported LD 2129, with some of the hearing participants referring to the bill as a "no brainer and slam dunk". According to the proponents of the bill, industry officials rely on the Department's other resources to keep up-to-date on the status of the state's clam flats rather than the notices published in newspapers.

No one provided testimony in opposition to LD 2129.

## CLAM (cont'd)

came from DMR. DMR currently does all of the testing; private labs conduct none of the tests.

DMR is obviously concerned that the labs performing the water quality tests satisfy appropriate accreditation and certification standards. Yet, that does not seem to be an insurmountable hurdle.

The primary issue is that DMR feels there is additional work that must be done to allow these samples to be "processed". One cost is the need for a "lab evaluation officer" who would monitor the private labs providing the samples. Another is coordinating the certification of volunteers who would take these samples. A third cost would be to analyze the samples or read the analyses of the samples if analyses are also to be conducted by third parties.

DMR also sought to clarify the scope of the bill. The bill title speaks of "re-opening" flats and much of the testimony in support spoke of reopenings. However, DMR testified that testing related to "reopenings" of flats closed due to pollution such as overboard discharges, are currently allowed to be conducted by third parties. What is not allowed is the use of private labs for "reclassifications".

Either way, DMR feels that more tests alone won't expedite harvesting; additional work and therefore additional state resources might also be needed.

Lastly, the Maine Seafood Alliance testified "neither for nor against" the bill on the basis that this testing issue is part of a larger problem and should be tackled in conjunction with the overall problem.

In this time of tight state resources, it would be surprising if the state can't figure out a way to accept a municipal offer to pick-up some of the testing costs now borne by the state.

## 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, January 14

**Criminal Justice & Public Safety**  
**Rm. 436, State House, 10:00 a.m.**  
**Tel: 287-1122**

LD 1990 – Resolve, To Prevent Domestic Violence and Protect Our Citizens.

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

LD 1965 – An Act To Amend the Lucerne-in-Maine Village Corporation Charter.

### Tuesday, January 15

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

LD 2045 – An Act To Enact Guidelines for the Operation of Motorboats by Minors.

LD 2090 – An Act To Impose a Horsepower Restriction for Boat Motors on Long Lake and Brandy Pond.

LD 2088 – Resolve, To Direct the Department of Inland Fisheries and Wildlife To Allow Maine Residents To Register Their Watercraft Online.

LD 1858 – An Act To Protect Inland Water Access.

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

LD 1978 – An Act To Require the Department of Transportation To Recover for the Highway Fund Any Money Recovered from Those Responsible for Doing Damage to State Roads and Bridges.

LD 2101 – Resolve, To Change the Name of the South Bridge between Lewiston and Auburn.

### Wednesday, January 16

**Criminal Justice & Public Safety**  
**Rm. 436, State House, 9:30 a.m.**  
**Tel: 287-1122**

LD 1981 – An Act To Exempt Certain Facilities from Increased Fire Sprinkler Requirements.

### Thursday, January 17

**Business, Research & Economic Development**  
**Room 208, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1331**

LD 2003 – An Act To Create the Southern York County Regional Development Authority.

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

LD 2087 – Resolve, To Study the Feasibility of a Public Dock on Mooselookmeguntic Lake.

**Judiciary**  
**Room 438, State House, 1:00 p.m.**  
**Tel: 287-1327**

LD 1988 – An Act To Protect Persons Responding to an Emergency Situation Involving a Water Utility.

LD 2036 – An Act To Clarify Governmental Liability with Respect to Transfer Stations.

**Natural Resources**  
**Room 214, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-4149**

LD 1933 – An Act To Extend the Deadline for Application for Loans Associated with the Remediation of a Waste Oil Site in Plymouth.

LD 1947 – An Act To Clarify the Waste Motor Oil Disposal Site Remediation Program.

LD 1950 – An Act To Repeal the Premium Imposed on Motor Vehicle Oil Changes.

LD 2072 – An Act To Conform the Laws Governing Underground Oil Storage Tanks to the Requirements of the Federal Energy Policy Act.

LD 2073 – An Act To Prevent Contamination of Drinking Water Supplies.

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

LD 1948 – An Act To Require a Hearing When a Fatality Results from a Motor Vehicle Accident.

LD 2040 – An Act To Ban the Use of Liquid Calcium Chloride on Roads.

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

LD 1936 – An Act To Include the Town of Nobleboro within the Service Area of the Great Salt Bay Sanitary District.

LD 2076 – An Act To Amend the Charter of the Norway Water District.

## REFERENDUM (cont'd)

Therefore, all municipalities and school systems should begin preparing to adopt their FY 09 school budgets according to the budget validation process. There are a number of technical problems with the way that law was enacted which MMA and others are trying to get fixed, but if the Legislature can't get a two-thirds vote to fix those problems, the technically-flawed process is going to have to be followed in 2008 as reasonably and practically as possible.

It is unfortunate that the Legislature does not take the technical problems associated with the school budget validation process more seriously. Budget adoption and the associated referendum procedures need to be followed with care and are nothing to be cavalier about. What may appear to your legislators as merely "technical" problems could impair the legal integrity of an adopted school budget.

### **Inland Fisheries & Wildlife**

LD 1982 – An Act To Amend Certain Provisions of the Fish and Wildlife Laws. (Sponsored by Sen. Bryant of Oxford County; additional cosponsors.)

This bill tightens the definition of a Maine “resident” for the purpose of obtaining resident hunting, fishing, and trapping licenses by removing a provision of current licensing law that allows a “resident” license to be issued to a person who is registered to vote in another state or has a driver’s license issued by another state as long as that person has been domiciled in Maine for at least three months. This bill also authorizes the Commissioner of the Department of Inland Fisheries and Wildlife to revoke a hunting, fishing or trapping license issued to any person who has failed to pay the license, permit or registration fee to any licensing agent or the Department.

### **Legal & Veterans Affairs**

LD 2110 – An Act To Amend the Election Laws. (Sponsored by Rep. Patrick of Rumford; additional cosponsor.)

This bill makes a number of changes to Maine’s election laws. Among the changes relevant to the duties of municipal election clerks, the bill: (1) clarifies the extent of voter information that must be included on the current voter list; (2) reduces the time incoming voter lists must be sealed after an election from 10 days to 5 days; (3) allows municipal election clerks to accept absentee ballot applications by e-mail and establishes the procedures that must be followed when the municipal clerk provides that option; and (4) decreases the time for the municipal clerk to make a final update to the list of absentee voters in the central voter registration system from 10 to 5 business days after the election.

### **State & Local Government**

LD 2057 – An Act To Amend the Conflict of Interest Laws for Notaries of Public. (Sponsored by Rep. Barstow of Gorham; additional cosponsors.)

This bill expands the list of people for whom a notary public may not perform a notarial act. Under current law the list includes the notary’s spouse, parent, sibling, child, and the notary’s spouses’ parent, sibling and child. The bill adds to that list the notary’s grandparents and grandchildren, registered domestic partner, the entire list of close relatives of a registered domestic partner, and the notary’s step relatives.

### **Taxation**

LD 2140 – An Act To Protect Sellers in Residential Real Estate Transactions. (Sponsored by Rep. Sirois of Turner; additional cosponsors.)

This bill requires the loan officers responsible for conducting real estate closings of residential property to either notify the municipality where the real estate is located or make sure the current year’s property taxes are fully paid at the time of closing. If the first option is chosen, and the municipality is notified, the municipality would be required to file any subsequent property tax liens against the purchaser of the property rather than the seller, who would otherwise be the property owner of record for that tax year.

### **Transportation**

LD 1978 – An Act To Require the Department of Transportation To Recover for the Highway Fund Any Money Recovered from Those Responsible for Doing Damage to State Roads and Bridges. (Sponsored by Sen. Mills of Somerset County.)

This bill requires the Department of Transportation (DOT) to seek compensation from the responsible individuals for any damage done to any transportation infrastructure, including highways, bridges, railroads, ferries, mass transit, airports, bicycle and pedestrian facilities and all buildings, utilities, facilities and related appurtenances. The money recovered must be deposited in a DOT account and used for the benefit of transportation infrastructure.