

Agreement on Jail Consolidation Bill Reached – Property Tax Freeze Preserved

When the Baldacci Administration took on the jail consolidation issue for this session of the Legislature, it initiated an inclusive approach to the effort. Both the process and the final product of this inclusive effort were markedly different from the process and product that characterized the school consolidation effort of 2007. The effort to consolidate state prison and county jail operations into a unified state/county corrections system involved all the interested parties. And while that effort took time and energy, it resulted in a quality product that is generally supported by the interested parties.

Due to the efforts of the state, counties and members of the Criminal Justice Committee, a well-thought-out plan for consolidating the state and county corrections systems will soon be before the entire Legislature for debate. On Thursday this week, the Criminal Justice Committee voted to support the jail consolidation proposal by a margin of 11 to 1. When finally drafted, the Committee's bill will be printed as LD 2080, *An Act to Better Coordinate and Reduce the Cost of Delivery of State and County Correctional Services*. LD 2080 was a concept draft bill submitted by Rep. Patsy Crockett of Augusta and co-sponsored by 56 members of the House and Senate. As soon as the legislation is printed, it will be posted on MMA's website (www.memun.org).

While the path taken to achieve the end result was bumpy at times, the effort was well worth it. The commitment to freeze property taxpayer exposure to county jail operation costs at the FY 2008 funding level (\$61.4 million) was honored. The commitment to use state

revenues to offset future increases in county jail costs, to the extent those revenues may be needed, was honored. The commitment to ensure that all interested parties (i.e., the state, counties, municipalities and members of the public) have an ongoing role in the development of the process was also honored.

Under the property tax freeze element of the consolidation plan, the property taxpayers' exposure to jail operations cost is limited at the \$61.4 million

level. Any future increases in county jail costs are to be funded with state resources or found through efficiencies in the delivery of services. Historically, the cost of providing county jail services has increased by 6% annually. Based on this growth trend (and ignoring any impact from the change in the way correctional services would now be administered), it could be estimated that in 2009 the cost

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BRED Committee Split on Building Code Bill

The Business, Research and Economic Development Committee is issuing two reports on the building code bill (LD 2257) for the consideration of the full Legislature. The distinctions between the majority report and the minority report primarily deal with three issues.

First, the majority report supports mandatory municipal enforcement. The minority report does not. MMA and the Service Center Coalition strongly oppose the majority report and support the minority on this basis. The central goal of the bill is to get each municipality which enforces a code onto "the same page" in terms of the version of the building code that will be used. The minority report will accomplish this important regulatory reform without an unnecessary mandate. Furthermore, supporters of the majority mandate are attempting to explain away this municipal mandate by "allowing" municipalities to force

citizens building or renovating their homes to hire certified third-party inspectors to do the enforcement work. If the state wants to impose this mandate directly on the public, that is a different issue. But there is strong municipal objection to the majority report's attempt to filter this imposition through municipal government.

Second, the majority report creates a new building code board and creates two or three new state employees and assigns it many duties and tasks. The minority report also creates a board but focuses the board's efforts on the single task of adopting the uniform code. MMA again supports the minority. The duties and tasks proposed by the majority report are for the most part worthy and sensible. However, these additional duties and tasks are not a priority until after the code is adopted. In both reports, the code is not adopted until January 1, 2010. So, deci-

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of providing county jail services will increase from \$61.4 million to \$65.0 million. Under the jail consolidation plan, the property taxpayers will either avoid \$3.7 million in increased jail costs in the first year of implementation or, in the alternative, the unified corrections system will achieve efficiencies such that the theoretical 6% annual cost increases will not materialize.

Either way, if LD 2080 is enacted and properly implemented by the Legislature, it is the property taxpayers in communities across Maine that will benefit. As provided for in the plan, property taxpayer exposure to the cost of jail services will no longer increase, which as illustrated above, is a \$3.7 million savings in year one of the consolidation effort. Municipal officials believe that Maine's taxpayers are appropriately the biggest winners in the jail consolidation effort.

As adopted by the Criminal Justice Committee, the state/county unified corrections system legislation accomplishes the following:

- **Freezes property taxpayer exposure for funding county jail operations at the 2008 level.** As determined by a DOC fiscal survey, in 2008 budgeted county jail expenses (less revenue and debt service) was \$61.4 million. As proposed, counties are prohibited from assessing a property tax for the provision of jail services over the \$61.4 million figure. This element of the bill provides taxpayer savings in the form of avoiding future increases in county jail costs. Future increases in corrections costs, if any, will be funded with state resources. (It is important to note, that no portion of

the sheriffs' salaries was used in the calculation of the frozen tax assessment figure.)

- **Requires the property taxpayers to retire the debt in existence as of FY 2008.** According to the DOC, over the next 20 years the property taxpayers will invest \$112 million to retire the existing debt. All existing debt is to be paid by the property taxpayers in the county that issued the debt. Any debt issued after FY 2008 must be funded with state revenues.

- **Requires the state to fund future capital investments.** As proposed, the state is required to use state revenues to fund new capital improvements and projects. The property taxpayers are no longer responsible for funding future capital improvements to the corrections system.

- **Requires the state to create a capital improvement account.** The plan requires the state to create a reserve account for the purpose of funding future capital improvements. As provided for in the bill, the state is directed to set aside an amount equal to the 2008 debt obligation less the amount retired by the property taxpayers. For example, in 2009 the property taxpayers will retire \$10.20 million in pre-2008 issued debt. In 2008, the property taxpayers' debt retirement obligation was \$10.23 million, the difference—just \$30,000 in the first year—in state resources would be set aside to fund future capital investments.

- **Requires the state to create a transition reserve account to cover any increased county jail cost in the first year of implementation.** The proposal includes transition language requiring the DOC commissioner to submit a plan to the Governor for the inclusion of a \$1.5 million appropriation in state fiscal year 2009 (July 1, 2008 to June 30, 2009) to the operating reserve account of the State Board of Corrections. This provision addresses the concerns of the county representatives that in the first year of the consolidation plan state funds might not be available to fund increases in county jail operations. Although the revenue source has not yet been identified, the transition funding language was inserted to articulate the Baldacci Administration's commitment to hold up the state's side of the bargain, and those "transition funds" will come from

a state revenue source not otherwise dedicated to municipalities or counties.

- **Creates a nine-member State Board of Corrections (SBOC) to oversee the state/county jail consolidation effort.** The members of the Board include a sheriff, county commissioner, two state agency representatives, a municipal official and four public members. With the exception of the state agency representatives, all of the SBOC members are to be appointed by the Governor and confirmed by the Senate.

The purpose of the SBOC is to develop and implement a unified corrections system that achieves efficiencies and improves the delivery of correctional services. One of the more significant Board responsibilities is to determine how best to use existing facilities and resources. For example, the Board is responsible for determining how best to house special inmates, such as those with mental illness. Under this scenario, the charge to the Board is to maximize resources by focusing the special services necessary to house inmates with mental illness in one facility, rather than requiring all facilities to provide the specialized services and programs.

The Board is also responsible for determining which existing state and county facilities, if any, will be downsized or closed. The Board, through a "certificate of need" process, is responsible for authorizing new construction projects.

- Establishes the roles and responsibilities of the SBOC, state and county officials in the administration of the unified corrections system.

- **Establishes a budget adoption and review process for the adoption of county jail operations budgets and amends the county budget adoption process.** As proposed, the SBOC will annually set a growth rate for each county's jail operations expenditures that are allowed to exceed the frozen tax assessment amount. The additional expenditures, if any, will be funded with state resources. The SBOC will be responsible for reviewing and adopting county jail operations budgets. County budget committees will continue to be responsible for participating in the development of non-jail operations budgets.

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Legislative Bulletin

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Enforcing the Code

One of the most contentious issues surrounding LD 2257, the statewide uniform building code bill, is the issue of whether the code must be enforced by municipalities. Business, Research and Economic Development Committee Co-Chair Representative Nancy Smith (Monmouth) encapsulated that perspective when she said recently in the Morning Sentinel “*I can’t think of another instance where you pass a law, but leave enforcement optional.*” At first blush, this statement appears completely sensible. Why adopt laws if they are not going to be enforced? What is perplexing though to municipalities is why the Legislature has chosen this issue as the one on which to take this stand. And why is municipal enforcement the only enforcement method being considered?

One doesn’t have to look very far beyond the issue of building codes to find a prime example of where the state has passed a rule but left enforcement optional. The state has adopted a fire code (known as the life-safety code) for all construction in Maine including single-family homes. However, the state has not mandated that the State Fire Marshal’s Office enforce this code with respect to single-family homes. It’s the law, but enforcement of the life-safety code for these residential structures is entirely optional for the State Fire Marshal’s Office.

Some municipalities over 2,000 enforce the life-safety code in connection with an existing statute dealing with the “catching and spreading of fires” in the “thickly settled” areas of the municipality. However, for the rest of Maine, the state does not enforce its life-safety code. One would think that if legislators take the position that the enforcement of building regulations is important, they would begin with the life-safety code that a State agency adopts and administers rather than the energy code.

Another example is the state-mandated construction contract. For all home construction and home improvement projects over \$3,000, Maine law requires a written contract with a specific provision that prohibits payment up front of more than one third of the contract price. Enforcement of laws such as this are the responsibility of the Attorney General’s Office (AG). State legislators don’t expect the Attorney General to seek copies of all construction contracts and root out areas where it is not being used. Enforcement of this law is done to the extent the AG is able to devote resources to it. Otherwise, it is enforced through private litigation. There is no mandate from the state to the AG to do more. If the Legislature did attempt to direct that more be done, a “fiscal note” explaining the budget impacts on the state would be attached to the bill and in the tough economic times such as we are now facing, it would almost certainly not obtain state funding.

Furthermore, MMA has never maintained that enforcement is unimportant. However, MMA does contend that if state legislators feel a new state code, which is enshrined in state law and overseen by a state board, must be enforced, then the state should be willing to enforce it. If enforcement is an important principle there is nothing preventing the State from undertaking the obligation that the majority report on LD 2257 would require of municipalities. That is, the State can hire inspectors itself and charge permit fees to cover the cost or the State can force home builders and remodelers to get a third-party inspection and issue certificates of occupancy.

In fact, this is the statutory framework that exists in current law for the state electrical code. Municipalities have the option to enforce the state electrical code and some do. For those areas of the state where the municipal government does

not enforce the electrical code, the State enforces the code.

Finally, the builders, architects, developers, insurers and code enforcement officers who participated in the state-funded focus groups on the issue of enforcement felt mandatory enforcement was not needed. Some thought mandatory municipal enforcement was good policy others opposed it. However, the Market Decisions researchers who wrote the report commissioned by the State Planning Office on this topic concluded that even supporters of having the code apply statewide “*thought the codes could be used everywhere even if every municipality didn’t police them.*”

In fact, a draft report circulated in December by the State Planning Office on the building code issue proposed that the Fire Marshal’s Office be responsible for enforcing the commercial aspects of the code and that “*The...Committee recommends that plan reviews and inspection for residential buildings should continue to be done on a voluntary basis by municipalities.*” It was only following intense lobbying that SPO flipped its position and drafted a bill to mandate municipal enforcement — SPO then flipped back and agreed not to support the mandate 24-hours before the final work session— SPO finally flipped again at the final work session and supported mandatory municipal enforcement.

Suffice it to say, enforcement of codes is important, but there are many options for enforcement: state enforcement, state-mandated third-party enforcement, contractor licensing, private right of action, and many others. Unfortunately, the only enforcement that the majority report mandates is municipal enforcement. This cannot be respected as a position of principle any longer. MMA urges municipal officials to contact their legislators and oppose the majority report’s mandate.

BRED (cont’d)

sions regarding any new tasks and duties for this new board can be delayed until 2010.

Third, the majority report adopts a statewide energy code and radon code as well as a new building code. The minority report by comparison maintains current law which identifies a single energy

code and radon code that may be used in Maine but does not mandate its adoption. The minority report recognizes the reality that there is a separate piece of legislation for energy code issues this session, LD 2179.

MMA’s Legislative Policy Committee (LPC) supported a limitation on home rule regarding building code adoption. The LPC endorsed regulatory reform for

building codes on the belief it will help Maine take a big step forward. However, the policy committee’s simple request is that the decision to have municipalities enforce the code remain a local decision. If the state would like to pursue alternative enforcement methods, as discussed in the sidebar article in this *Legislative Bulletin*, municipalities are willing to work with the state on the issue.

Supplemental Budget Bill Adopted

School Funding Represents Biggest Property Tax Impact

Sometimes at a town meeting, the big ticket items are adopted almost effortlessly while a relatively small warrant article takes on a life of its own. A detached bystander at such a town meeting is likely amazed that a warrant article that is practically inconsequential from a financial perspective can nonetheless be infused with such symbolic power that a heated hour-long debate needs to occur before the fate of the \$250 appropriation can be decided.

It is not that different at the state level. The first 85 days of the state's supplemental budget development process were largely characterized by a sense of bipartisan agreement. The last five days became contorted by fairly bitter inter and intra party politics. Ultimately — and just in the nick of time to meet certain deadlines of implementation — it was the Democratic Party's budget that was adopted without Republican support.

For all the psychological and political energy that has gone into addressing the \$190 million state budget gap over the last three months, the major issue at the center of the debate in the budget's final days was about the Office of Program Evaluation and Accountability (OPEGA), which is a relatively small office charged with analyzing governmental programs for efficiency and effectiveness. The debate was whether OPEGA should be reorganized or reduced in staff in any way. Although not the financial centerpiece of the budget, it was abundantly clear that OPEGA is an issue for which there are very strong ideological perspectives.

In contrast, cutting \$34 million from the amount scheduled to be distributed as state aid for local schools barely raised an eyebrow during the final days of the budget debate.

From a property tax perspective, however, the school funding appropria-

tion and the way that appropriation will be distributed is far-and-away the most significant element of the state budget just adopted. Here are some factoids:

Big picture. The FY 09 appropriation for General Purpose Aid to Education is going to be \$983.5 million instead of \$1.017 billion, a \$34 million reduction. In technical terms, that sum represents 54% of 97% of the Essential Programs and Services (EPS) school funding model, instead of 55% of the full EPS model.

Percent of actual EPS. The 55% standard was the level of funding for this year that the Legislature committed itself to in 2005 when "LD 1" was enacted as the bill to implement a directive adopted by the voters. At the time, the LD 1 "ramp-up" to 55% was controversial because it was scheduled to occur in four years rather than more aggressively. Four years has now quietly turned into five. For those who are keeping track, 54% of 97% of EPS equals a little over 50% of EPS.

Percent of (actual) total spending. Even if all school budgets next year (FY 09) added up to the total sum of all school budgets adopted last year (FY 07), \$983.5 million would represent 47% of actual public school expenditures. On the basis of trends in school expenditure growth, \$983.5 million will likely represent something like 43% of the sum of all public school budgets.

Change from last year. \$983.5 million represents an increase in the overall GPA appropriation from last year of \$5.5 million, or six-tenths of one percent.

Distribution issues. Under the school subsidy distribution approved by this budget, more than 150 school systems will be receiving less school subsidy in the upcoming year than they received from the state during this current year. That is not, as some legislators like to suggest, merely a reduction in the size of an anticipated increase. It is a straight-out actual reduction in subsidy. 88 of those school systems will experience a 10% or greater reduction in school subsidy. The reduction in school subsidy for 53 of those school systems will be 5% or

more of their total school budget. Accommodating these reductions in state support for the affected regions of the state will likely result in a combination of reduced public school services and increased property taxes.

Other budget issues. The school subsidy decision is the major state budget issue for municipalities. The other municipally-related budget impacts are dwarfed by comparison.

Eliminating the Local Government Efficiency Fund. Even though the Local Government Efficiency Fund was never capitalized with anything but municipal Revenue Sharing resources, the Legislature seems to have disliked this program since its birth in 2004. As adopted by the voters, 2% of revenue sharing funds were supposed to be set aside each year to provide competitively-obtained grants to multi-municipal or municipal-county applicants who are attempting to implement a more efficient service delivery system. 2% of total municipal revenue would provide \$2.5 million each year for that purpose. After setting the program up in 2005, the Legislature took all \$2.5 million in revenue sharing resources in the Efficiency Fund for FY 06, and raided the Fund to the tune of \$2 million in FY 07.

Now with this budget, the Legislature is sweeping the Fund entirely in FY 08 and FY 09, thereby diverting \$5-plus million in revenue sharing resources to the state's General Fund over the biennium.

Eliminates FY 09 Comprehensive Planning Grants. The budget eliminates \$150,000 from a State Planning Office account that would be used to provide comprehensive planning grants to towns and cities during FY 09.

Circuit Breaker. Under the Circuit Breaker property tax and rent rebate program, there is a limit on the size of the applicant's property tax bill that will be considered when calculating his or her benefit. For the individual applicant, that property tax limit was set in 2005 at \$3,000, and for the multi-person household, the property tax limit was set at \$4,000. Current law requires both of those limits to be annually adjusted upwards for inflation. The new supplementen-

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Motor Vehicle Excise Tax Changes Garner Split Committee Report

The bill is LD 2270, *An Act to Change the Formula for the Calculation of the Motor Vehicle Excise Tax*.

We've written at some length about LD 2270 in the March 14th and March 28th editions of the *Legislative Bulletin*.

In summary, LD 2270 would drop both the highest and lowest excise tax rates by 12.5% but preserve the general progressivity of the rate structure by incrementally increasing the intermediate rates. Although the excise tax rates from the second through the sixth registration year are increased, they are not increased in such a way that any car owners will experience an increase in their year-to-year excise taxes for the same car. LD 2270 would also stretch out the current six-year declining rate structure to eight years.

On a rate-structure-to-rate-structure basis, LD 2270 would reduce municipal excise tax collections by approximately \$3 million, or 1.6%, in its first year of implementation.

A chart showing the proposed rate structure change is provided below.

Year of Reg	Current Mill Rate	Proposed Mill Rate
1	24	21
2	17.5	18
3	13.5	15
4	10	11.5
5	6.5	7
6	4	4.5
7	4	4
8	4	3.5

After the public hearing on this bill a week ago Wednesday, it seemed as though LD 2270 would not get a very favorable report from the Taxation Committee. Most Committee members at the public hearing who spoke on the subject complained that LD 2270 missed the mark by focusing on restructuring the excise tax rates when the complaints from their constituents are focused on the system's use of the "Manufacturer's Suggested Retail Price" as the base. In

last Friday's issue of the *Legislative Bulletin*, we suggested that the bill would likely get a negative report from the Committee.

As it turns out, the Committee report is more accurately described as evenly split rather than negative. In making that report, the Taxation panelists who are supporting the bill amended it in two ways:

1. The effective date of the restructuring change would be July 1, 2009.

2. The bill would also be amended at the request of the Bureau of Motor Vehicles to change the way that the excise tax is applied to trucks weighing over 26,000 lbs. Under current law, the excise tax is applied to those trucks on the basis of the actual sale price rather than the MSRP ("list price") and the municipalities are reimbursed for the difference from a special fund that is capitalized with prorated excise tax contributions from interstate truckers and trucking companies. LD 2270 as amended would change that system when the big rigs are being registered for their eighth year. Instead of the excise tax rate being applied against the actual sales price in the eighth year, it would be applied against that vehicle's "MSRP". The theory is that it is too difficult to track the actual sales price of a truck that has been registered for so many years (and typically transferred during that time from the original owner to others). MMA has historically opposed this legislation because it would lead to the circumstance where a municipal excise tax customer would be actually charged a larger excise tax for the same vehicle than was charged the year before. Under this proposal, however, the owner of any motor vehicle in its eighth year of registration would experience a reduction in rate according to the new proposed schedule (from 4 mills to 3.5 mills), which would apparently mitigate any year-to-year increase in excise tax obligation for that eighth year when the big-rig's excise tax base is changed.

The restructuring proposal in LD 2270 was developed by a working group

formed by a legislative "resolve" that included municipal participants, but now it's your turn. Among other constituents, legislators are interested in hearing about the local municipal reaction to the excise tax rate restructuring proposed by LD 2270.

BUDGET (cont'd)

tal budget returns those values to \$3,000 and \$4000, and takes out the requirement that those values be annually indexed. By removing the annual indexing of those values, the budget projects a \$2.7 million reduction in FY 09 Circuit Breaker distribution. To put that into context, the Circuit Breaker program is currently issuing over \$46 million in property tax and rent rebates.

Slight increase in TANF benefits. The printed budget contained a section that provided some supplemental benefits under the federal-state Temporary Assistance to Needy Families program (TANF), and at the same time prohibited any TANF recipients from receiving either regular or emergency General Assistance.

The two supplemental benefits are: (1) the special housing allowance for TANF households whose housing expenses exceed 75% of their monthly income is increased from \$50 a month to \$100 a month; and (2) a three-year "limited transitional" food benefit must be provided to TANF households who lose eligibility for TANF due to employment after July 1, 2008. The transitional food benefit is \$100 a month for the first year, \$75 a month for the second year, and \$50 a month for the third year.

The finally-adopted budget continues to provide the supplemental benefits to certain TANF households, but does not include the provision that prohibits TANF households from receiving General Assistance. According to the budget document, the increase in benefits for TANF households is projected to reduce the state's municipal reimbursement appropriation for General Assistance by \$525,000 in FY 09. Because the General Assistance reimbursement is generally 50% of the local benefits that are distributed, this suggests a total projected state-and-local savings in General Assistance of over \$1 million.

FY 08 Road Assistance Reductions Shifted to '09 Highway Fund Budget

In 1999, the Local Road Assistance Program (LRAP) was converted into the Urban-Rural Initiative Program (URIP), resulting in changes in the way the state revenue sharing program for local roads is implemented and funded.

The most significant change adopted through the URIP conversion was the replacement of the then flat-funded annual state appropriation for local road maintenance with an indexed funding formula. Under the new formula, municipal assistance is linked to increases and decreases in the Department of Transportation's (DOT) highway and bridge improvements capital funding budget. As provided for under URIP, municipalities collectively receive nearly 10% of the funds appropriated for state highway and bridge improvements for capital investments in local roads. Under this funding approach, in years when DOT funding is increased for capital improvements, the amount of funding provided to municipalities increases. In years when DOT funding decreases, the amount of funds allocated to municipalities decreases.

Since the adoption of URIP in 1999, state funding for the local road assistance program grew from \$19.5 million to \$26.1 million in FY 07. As adopted last year as part of the Highway Fund budget, the FY 08 and FY 09 URIP appropriations were \$25.9 million and \$26.1 million, respectively.

However, due to state budget constraints and reductions in fuel tax revenues, funding available for URIP over the FY 08 – FY 09 biennium will decrease. Appropriations for URIP in FY 08 are projected to be \$25.2 million, a decrease of \$619,905. While appropriations for FY 09 funding is projected to increase to \$25.6 million, it is a reduction from the originally adopted appropriation of \$26.1 million, resulting in a downward adjustment in URIP funding of \$493,564. Over the FY 08-09 biennium, the amount of revenue available to fund URIP is projected to decrease by \$1.1 million.

This reduction in available revenue is reflected in LD 2196, which is the supplemental Highway Fund budget for FY 08 and FY 09.

As proposed in LD 2196, the funds appropriated to URIP are reduced by \$1.1 million over the biennium. However, rather than splitting the fiscal impact between FY 08 and FY 09, LD 2196 pushes the financial impacts on municipalities to the second year of the biennium, FY 09. As proposed, municipalities would receive the full \$25.9 million

in URIP funding originally appropriated for FY 08 and receive \$25.0 million in FY 09 (July 1, 2008 to June 30, 2009), a reduction of \$1.1 million over the original projection of \$26.1 million.

In making this adjustment, it appears that the members of the Transportation Committee are acknowledging the fact that it will be difficult for municipalities to amend and curtail FY 08 budgets in time to adjust for the cuts this year. The end of the state's fiscal year, which is June 30, 2008, is a mere three months away. However, as municipal officials prepare budgets for calendar year 2008 and fiscal year 2009, they will need to keep in mind that revenues available to fund URIP in the next year will essentially be flat-funded.

Tax Committee Endorses Two Bills Developed by Municipalities

One stabilizes Tree Growth Reimbursement; the other addresses Revenue Sharing Administration issues

On Friday last week, the Taxation Committee gave its unanimous approval to two municipality-oriented bills designed to make relatively small but nonetheless important changes to both the Tree Growth reimbursement system and the municipal revenue sharing distribution system. Both pieces of legislation were discussed in detail in the March 14th edition of the *Legislative Bulletin*. What follows are abbreviated summaries of the two bills as finally given "ought to pass" reports by the Tax Committee.

Revenue Sharing. The revenue sharing bill is LD 2276, *An Act to Improve the Administration of State-Municipal Revenue Sharing*. LD 2276 has three components.

• **Revenue sharing projections by April 15.** LD 2276 makes technical amendments to the revenue sharing law

so that the State Treasurer can post on the state's website the projected revenue sharing distribution for each town and city no later than April 15 each year. The bill expressly directs the State Treasurer to make that posting by that deadline.

• **Revenue sharing and amendments to the LD 1 "net new funding" calculation.** Under the terms of LD 2276, the calculation of "net new state funding" according to the "LD 1" spending limitation system would be based on actual revenue sharing receipts rather than the projected revenue sharing receipts, as is required under current law. Second, if the revenue sharing distribution is reduced from the previous year, the municipality's property tax levy limit could be adjusted upwards to reflect that loss in state-based financial support. This would parallel the existing requirement to reduce the property tax levy limit when revenue sharing is increased.

• **Limits on the Efficiency Fund planning grants.** Revenue sharing resources are used to capitalize the Local Government Efficiency Fund (if not raided by the Legislature... see the article on the supplemental state budget in this edition of the *Legislative Bulletin*). In order to target

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those funds more directly toward implementation, LD 2276 would limit the amount of the Fund that is available for planning purposes to 10%, thereby providing 90% of the Fund for the direct implementation of actual efficiency projects. In addition, the planning grants would have to be matched on a dollar-for-dollar basis with local funds.

- **Legislative raids on revenue sharing.** The printed version of LD 2276, as developed by a working group of municipal officials, would amend the system of capitalizing the Local Government Efficiency Fund in an effort to prevent the Legislature from using that Fund as a vehicle to raid municipal revenue sharing. Specifically, the printed bill would have capitalized the Local Government Efficiency Fund with \$500,000 of revenue sharing resources each year, beginning with FY 2010. On paper, current law would capitalize the Fund with 2% of all revenue sharing resources each year, which would be approximately \$2.5 million. Since the inception of the program, however, the Legislature has raided either most or all of the Fund each year. The theory, therefore, would be to cap the Fund at \$500,000 so the Legislature wouldn't raid it. At the end of the discussion on the subject, the Tax Committee took this provision out of the bill on the theory that the whole bill could be killed during the enactment process because some legislators will not want to limit the Legislature's opportunity to raid the revenue sharing fund through this vehicle in future years.

- **Tree Growth reimbursement.** The Tree Growth reimbursement bill is LD 2274, *An Act to Amend the Tree Growth Reimbursement Formula*. LD 2274 is designed to take the unpredictability out of the Tree Growth reimbursement formula by altering the two data inputs in the current reimbursement formula that are responsible for the wide year-to-year swings in reimbursement levels even though there are no local changes in Tree Growth enrollment.

The first change is to use each municipality's equalized tax rate in the formula instead of the municipal tax rate, which can swing widely with revaluations and significantly impact Tree

Growth reimbursements.

The second change is to not conduct the complicated school subsidy adjustment on a town-by-town basis. Instead, the school subsidy adjustment would be accomplished as a statewide aggregate adjustment to the legislative appropriation for Tree Growth reimbursement. In that way, the very significant swings in year-to-year Tree Growth reimbursement that are caused by the town-by-town GPA adjustments would not occur.

This bill does not change, however, the overall amount of Tree Growth reimbursement. It will be for another day to take up the issue of how the reimbursement program works particularly with respect to very high-value properties that are enrolled in the Tree Growth program pretty obviously as a property tax break for waterfront landowners

JAIL (cont'd)

- **Amends the existing LD 1 formula.** As outlined above, increases in county jail operations will be determined by the SBOC and therefore no longer subjected to the LD 1 limit. However, the growth in non-jail related tax assessments will continue to be regulated under the LD 1 limit process.

- **Reinstates \$5.6 million Community Corrections Fund.** As part of the supplemental budget just adopted by the Legislature, the \$5.6 million in FY 09 "community corrections" revenue that subsidized county jail operations has been reduced to \$4.6 million. The proposal uses a yet-to-be-identified state resource to reinstate the entire fund.

- **Creates an investment fund managed by the SBOC to compensate the state and counties for the provision of correctional services.** Sources of the fund include: 1) net savings resulting from the implementation of Board directed efficiencies (e.g., development of statewide transportation system, etc.); 2) net savings resulting from the downsizing or closing of a state or county correctional facility; 3) County Jail Prisoner Support and Community Corrections funds, formerly provided to counties; 4) funds from other public or private entities; and 5) interest and investment income.

- **Creates the Corrections Work-**

ing Group. The working group is comprised of the DOC commissioner, president of the County Commissioner's Association and the president of the Maine Sheriffs Association. Through the development of a memorandum of understanding, the informal working group is charged with sharing information, discussing and resolving any issues or problems experienced in the daily operation of the unified corrections system, including the placement of inmates. In its effort to resolve issues and concerns, the working group is also authorized to consult with experts and stakeholders, including prosecutors, victim advocates, etc.

- **Encourages, but does not mandate, counties to change their calendar year budget cycles to the state's July – June fiscal year.** In order to facilitate the process, the proposal authorizes counties to issue a five-year tax anticipation note for the transition period. In order to change from the current calendar year budgeting cycle to a fiscal year budgeting cycle, counties will need to adopt an 18-month budget. That 18-month budget will temporarily shift additional costs (six-months worth) onto the property taxpayers. To mitigate the tax shift, this proposal enables municipalities to determine how best to fund the six additional months of expenditures. Under the proposal, a municipality can choose to fund the additional costs all at once or to fund those transition costs incrementally over a period of time not to exceed 60-months. The process adopted in the jail consolidation bill is similar to the language found in a law (PL, 2001, c. 499) enacted in 2002 enabling Sagadahoc County to change its fiscal year.

Despite the hurdles encountered throughout the process, the final outcome is positive. The corrections consolidation plan endorsed by the Criminal Justice Committee will not only provide for an efficient and effective unified corrections system, but also will relieve the burden, in a going forward fashion, on the property taxpayers to fund the system. MMA would like to thank the members of the state/county negotiations team, members of the Criminal Justice Committee and legislative analysts

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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/>.

Wednesday, April 9

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

LD 2208 – An Act To Provide Additional Funding for the Low-income Home Energy Assistance Program.

JAIL (cont'd)

who created countless numbers of drafts of the proposed legislation.

The final version of LD 2080 is now being finalized and will then be presented to the entire Legislature for a full debate. Municipal officials are encouraged to share their opinions of the corrections consolidation proposal with their legislators. Members of the Senate can be reached at 1-800-423-6900. Members of the House can be reached at 1-800-423-2600.

If you have any questions about the proposal, please feel free to contact Kate Dufour at 1-800-452-8786 or kdufour@memun.org.