

Taxation Committee Works Several Property Tax Bills

The Taxation Committee is currently working on three property tax bills of municipal interest. One would exempt household-type personal property from taxation, one would address the issue of poverty abatements for commercial property, and one would completely revamp the tax lien foreclosure process.

Household Personalty

The general rule in Maine's property tax law is that personal property used for commercial or industrial purposes is subject to property taxation.

There is also a general rule that personal property owned by householders and not used for any business purposes is exempt from taxation. The exception to that general rule is "household" personal property that has an assessed value of \$1,000 or more. The most commonly identified examples of this type of taxable property are household computer systems, high-end lawnmowers or garden tractors, and All Terrain Vehicles (ATVs).

For several years, Rep. Chris Barstow (Gorham) has been trying to bring about the permanent and complete property tax exemption for all household personal property, regardless of its value.

As a matter of practice, few municipalities assess household personal property that does not generate income. Generally speaking, the only assessing activity in this area that occurs is applied to personal-use tractors, bulldozers, and similar vehicular equipment.

Rep. Barstow's first obstacle in bringing about this new property tax exemption is Maine's Constitution, which pro-

vides that municipalities must be reimbursed by the state for at least 50% of the lost tax revenue associated with any newly created property tax exemption. That constitutional provision has been interpreted by state legal authorities to entitle municipalities to at least 50% of what their maximum tax revenue losses would be, even if the municipality were not assessing all or even any household personal property at the time the exemption is enacted.

Rep. Barstow's bill is LD 56, *Resolution, Proposing an Amendment to the Constitution of Maine To Facilitate the Repeal of the Taxation of Personal Property Valued at \$1,000 or More*. LD 56 is the "vehicle bill" the Taxation Committee is using to find a way to exempt household personalty from taxation without reimbursing municipalities for any lost revenue – especially if there is none.

As printed, LD 56 would amend Maine's Constitution so that the state's 50% reimbursement obligation would be waived if the municipality had not been taxing whatever "type" of property that the Legislature may choose to exempt.

Because the printed version of LD 56 presents a number of unintended consequences, the Committee is looking at other options, including:

- Amending the Constitution to specifically exempt non-income producing household personalty. If accomplished through the Constitution rather than by statute, no reimbursement obligation would exist.
- Amending the Constitution to

create a local option for the assessment of household personalty.

- Amending the Constitution to create a higher level of exemption for this type of property, such as \$5,000 or \$10,000.

MMA is conducting a wide survey to ascertain the degree to which household personal property is actually being taxed in Maine. Preliminary results suggest that the only subset of household personal property being assessed by some

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ADA Rulemaking

The Maine Human Rights Commission (MHRC) has proposed a rule that is of municipal interest.

The proposed rule would have Maine deviate from the federal Americans with Disabilities Act (ADA) with regard to how a disability is determined. In a 1999 decision, the U.S. Supreme Court held that the determination of whether an individual has a disability, for purposes of the ADA, should be made with consideration of mitigating medical treatment. The MHRC wants to continue its practice of making the determination of whether an individual has a disability to be determined without consideration of mitigating medical treatment for purposes of the Maine Human Rights Commission's regulations governing employment discrimination.

A way to think about the issue is to consider someone who has very poor vision but wears corrective glasses. The federal ADA states that in determining if a person with vision impairment has a disability, the person's vision should be assessed while they wear their glasses; the MHRC wants the determination as to disability to be made with the glasses off.

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TAXATION (cont'd)

municipalities includes unregistered wheeled or tracked motor vehicles.

With practice being what it is, it's hard to see that there is a problem out there that is compelling a constitutional solution.

Poverty abatements for businesses?

On Monday this week, Rep. Ken Fletcher (Winslow) presented to the Committee a bill under his sponsorship that responds to a 2004 decision of Maine's Supreme Court that would open up the poverty abatement process to commercial and industrial properties.

The bill is LD 358, *An Act to Limit Property Tax Abatement for Reasons of Poverty or Infirmary to Applicant's Residential Property*. The decision handed down almost a year ago by Maine's Supreme Court is called *Hustus v. Town of Medway*.

In the *Hustus* case, the applicant for an abatement of taxes for reasons of poverty or infirmity owned property that included both residential and commercial elements. The town granted the applicant a partial abatement. Instead of a total forgiveness of the applicant's property tax obligation, the town granted a partial abatement based on the applicant's tax obligation as it pertains to her residential, non-commercial property.

Municipalities have always understood and interpreted the "poverty abatement" statute to apply to an applicant's residential property. The ownership of excess land or commercial property is not a reason in itself to deny a poverty abatement, but it is not the understanding of municipal folks that the selectmen

or town or city council should be exempting commercial property from taxation for reasons of the commercial property owner's "poverty". That decision pushes that tax burden onto the rest of the taxpayers that are working so hard to meet their tax bill. That push may be warranted in special cases where a person's primary residential property is at stake. That push of tax burden onto others is not warranted in the commercial/industrial circumstance.

The Supreme Court, in the *Hustus* decision, is not saying that poverty abatements should be applied to commercial property. It is merely saying that the ancient poverty abatement law is not written with the type of modern precision that makes the intention of the Legislature clear. The *Hustus* decision reads in part:

"If the Legislature intended to exclude taxes on real or personal property used for nonresidential purposes from [poverty abatement law's] coverage, it could have easily so provided."

With LD 358, the municipalities are asking for that same clarification now that the Law Court decision has upset a very longstanding historical understanding. Municipal officials across the state would be very concerned if the Legislature failed to address this Supreme Court decision and thereby exposed the entire commercial and industrial property tax base to potential abatement on the basis of the ebb and flow of business income.

Mandatory Tax Lien Foreclosure Procedures

Last week's Legislative Bulletin reported on the public hearing for LD 320, *An Act to Limit Property Acquired by Municipalities due to Tax Delinquency*. The bill would establish a string of rights for all property taxpayers to avoid all the effects of a tax lien foreclosure process as long as they are making a "good faith" effort to meet the terms of a payment plan each municipality would have to provide based on the property owner's ability to pay.

At the public hearing, the bill's sponsor (Rep. McKane of Newcastle) and a proponent from the general public described municipalities very unfavorably in their alleged administration of the tax lien and foreclosure process.

The terms used by the proponents of the legislation to describe municipal practices included "theft", "ruthless", "unscrupulous", "unconstitutional", and "discriminatory". It was claimed that "many municipalities" treat their taxpayers unfairly, going after "windfalls", and adopting policies of "seizure".

Four alleged horror stories were used to document the proponents representations regarding inappropriate municipal behavior – in Windham, Freeport, Cumberland and Owls Head. In each case, it turns out, there is another side to the story which includes elected municipal officials acting according to established policies to make sure that all interests are provided accurate information before any final decisions are made with respect to the disposition of foreclosed property. In all but one of the mentioned cases the foreclosed property was returned to the former owner pursuant to a mutual agreement. In the fourth case, the history of the taxpayers delinquency was chronic to the point of being notorious, both with respect to tax and utility obligations and multiple payment arrangements that had been offered by the municipality. In no case did one of these municipalities ring-in on any "windfall" profits from a tax foreclosure sale.

Despite all of that, three members of the Taxation Committee have expressed an interest in moving forward with LD 320. Other members have expressed little interest in the bill. One chairperson of the Committee (Sen. Joe Perry of Bangor), is proposing to amend the bill to remove the language that micro-manages the entire tax lien foreclosure process and replaces it with a requirement that if and when a municipality sells single family residential tax acquired property, the former owner would be entitled to the proceeds of the foreclosure sale that exceed back taxes, interests, costs, charges, and some penalty that is undetermined as of yet.

Municipal officials are encouraged to contact MMA's Geoff Herman at gberman@memun.org or 1-800-452-8786 with their thoughts or responses to this proposed amendment to LD 320.

Legislative Bulletin

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Q & A

LD 1 Corner

Q. Can you give me an update on Homestead Exemption issue?

A. In last week's *Legislative Bulletin*, a legal issue was raised concerning which homestead exemption municipalities are supposed to apply during this upcoming tax year. The tax year, of course, is entirely based on the status of all property as of April 1, 2005. Maine's statute would indicate that the existing "graduated" \$7,000/\$5,000/\$2,500 homestead exemption should be applied. The Legislature's LD 1 attempts to say that the new \$13,000, 50% unreimbursed homestead exemption should be applied, even though it will not become law until well after April 1, 2005.

Thanks to the efforts of Senator Richard Nass (York Cty.) and Representative Josh Tardy (Newport), the question of which homestead exemption should be applied is being formally asked of Maine's Attorney General. The letter asking that question, signed by those two legislators, was delivered to the Attorney General on Wednesday this week.

When the Attorney General issues the answer, this particular ambiguous element of LD 1 should be resolved.

Q. Speaking of ambiguity...can you explain the difference between "increasing" and "exceeding" the property tax levy limit?

A. In the February 4, 2005 edition of the *Legislative Bulletin*, sample town meeting warrant articles were provided to cover the circumstance where the town would either "exceed" or "increase" the unique "property tax levy limit" that the Legislature has established for each municipality in Maine through LD 1. In providing those sample warrant articles, we got tripped up over the apparent difference in meaning between the act of "exceeding" the property tax levy limit and "increasing" it.

The following is an effort to clarify the implementation of LD 1 on this sub-

ject (although the legislation itself is far from clear).

For the town meeting to "exceed" the limit means a one-time decision that only affects the town's property tax commitment for that year. The next "property tax levy limit" established a year from now will start from this year's base limit, without including the amount of the appropriations that were authorized to "exceed" the limit.

On the other hand, the town meeting or town or city council's act to "increase" the limit has the effect of establishing that increased municipal commitment as the base limit, and creates the starting point for the development of the following year's limit a year from now.

In the 2/4/05 Bulletin, we provided a sample warrant article to "increase" the limit as follows:

Article X. To see if the town will vote to exceed the property tax levy limit of \$_____ established for (name of town) by State law in the event that the municipal budget approved under the preceding articles will result in a tax commitment that exceeds that property tax levy limit.

It is important to note that if the intention of the article is to "increase" the limit, rather than "exceed" the limit, the article should be worded as follows:

Article X. To see if the town will vote to increase the property tax levy limit of \$_____ established for (name of town) by State law in the event that the municipal budget approved under the preceding articles will result in a tax commitment that is greater than that property tax levy limit.

Q. How is the "overlay" we included in our existing property tax commitment treated when we calculate the town's "property tax levy limit"? Also, will we still be able to include an "overlay" in our property tax commitment this year?

A. The "overlay" is a permission that has long been established in Maine law

that allows the municipal officers and assessors to round-up the property tax mill rate that is calculated after the town meetings or after the council adopts the budget, when the property taxes are finally committed. The overlay is not an appropriation. It is an authority to collect slightly more in taxes than what is actually appropriated for the purposes of using rounded-off mill rates instead of mill rates with many digits past the decimal point. Some municipalities formally authorize the use of overlay funds to provide returns to taxpayers in the case of property tax abatements. Since they are not appropriated for any purpose, overlay funds generally flow to surplus.

Your first question is how you treat the overlay that was included in the current year's commitment as you calculate your property tax levy limit as required by LD 1.

The starting point for that calculation is to identify what we are referring to as the town's "core municipal commitment". The term "core municipal commitment" is not used in LD 1, but it should be. The term used in LD 1 is the "property tax levy", but as will be noted, what is being controlled by the municipal spending limit system in LD 1 is a subset of the total property tax levy.

The following analysis assumes your municipality operates on a fiscal year that begins on July 1, 2005. The municipalities that operate on a calendar fiscal year do not have to operate under the property tax levy limit system until their next budget year.

The town's core municipal commitment consists of:

1. The total property tax commitment for the current fiscal year (FY 05), MINUS four components of that commitment:

- a. The share of that commitment related to school spending;
- b. The share of that commitment related to the county assessment;
- c. The share of that commitment related to any TIF payments or special taxing district payments;
- d. The share of that commitment related to overlay.

The reason the overlay is excluded in the calculation of the core municipal commitment is because it is not an appro-

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Cops 'N Court, Guns in Town Hall

The problem with making assumptions is that the practice often leads to a misunderstanding or an unfair characterization. Municipal officials are very aware of the problems associated with making assumptions. Pick up a newspaper and you will read stories that assume that "uncontrolled" municipal spending is the sole reason for Maine's high tax burden. Rarely do these articles recognize the state and federal laws that impact the cost of delivering municipal and educational services. Instead municipal officials are unfairly characterized as the being the obstacles for relieving taxpayer burden.

Coincidentally, this week two legislative committees held public hearings on bills that dealt with certain assumptions. One bill addresses the assumption that a municipality is able to control the possession of firearms on public property. The other bill would ensure that municipalities and counties actually receive the small amount of traffic fine revenue dedicated to local government, although it is commonly assumed that municipalities and counties, and not the state, keep all of the revenues generated from traffic infraction fines.

Firearm Possession Regulation

On Monday of this week, the Criminal Justice Committee held a public hearing on LD 344, *An Act to Authorize the Regulation of Firearms on Public Property*. As proposed by Sen. Peggy Rotundo (Androscoggin Cty.), the bill would clarify that any municipality, county, university or state agency would have the right to regulate the possession of firearms on public property.

While it might be assumed that municipalities already have the authority to regulate the possession of firearms in town and city halls, parks and recreation centers, libraries and other municipal buildings, it is not the case. State law generally preempts firearm regulation on the local level. The one existing exception is the right of municipalities to regulate the discharge of firearms within the municipal boundaries. No municipality, county, university or state agency has any authority to develop or enforce

a policy banning the possession of firearms in any public building, although some have adopted such policies.

The proponents of the bill, including the Maine Municipal Association, provided common testimony. Proponents were generally concerned with the misperception of the general public that public entities have the right to regulate the possession of firearms in public places. People generally believe that the places where the public gathers to meet and play are free of firearms. Bill Harwood, representing Maine Citizen's Against Handgun Violence, pointed to the false sense of security provided to the parents of college students attending the state's university system. Many of the college campuses have policies that prohibit students from storing firearms in their dormitories. Harwood believes that because state law preempts that kind of regulation, the policies of the university campuses are unenforceable and could be legally challenged. Proponents believe that it should be left to these public entities to develop firearms possession policies as they see fit.

No one offered any testimony in opposition to LD 344.

Fine Revenue

While it is generally believed that all of the fine revenue generated by the traffic infractions summons issued by municipalities and counties are kept by those entities, that is also not the case. Of the \$21 million in fine revenue projected to be generated in FY 05, only \$1.2 million will be set aside for municipalities and counties. Of that \$1.2 million set aside, it is estimated that only \$629,000 will be returned to the municipalities and counties that enforce the state's traffic laws.

Currently, six percent of the fines and forfeitures collected for all traffic infractions are dedicated to the Law Enforcement Reimbursement Fund. The revenue accruing to the fund is used to reimburse municipalities and counties a \$50 *per diem* for the time municipal and county law enforcement officers spend in court. Any revenue remaining in the Fund at the end of the fiscal year is

transferred to the state's General Fund. Between 2001 and 2004, an average of \$239,000 per year in revenue dedicated to reimbursing municipalities and counties was remitted to the state's General Fund. In 2005, it is estimated that \$628,000 will be returned to the General Fund.

LD 371, *An Act to Distribute Revenue in the Law Enforcement Agency Reimbursement Fund to Municipalities and Counties*, sponsored by Senator Christine Savage (Knox Cty.), seeks to address that issue. As proposed, all revenue remaining in the Law Enforcement Reimbursement Fund at the end of the fiscal year would be distributed to qualifying municipalities and counties on a population-based formula, rather than being returned to the state's General Fund. Municipalities employing at least one full time law enforcement officer or municipalities that have a contract for rural service patrol with the county would qualify for this additional reimbursement.

As proposed in the bill, the amount of additional reimbursement would be calculated by multiplying the municipality's population factor (which is the municipality's population as a percentage of the statewide total) by the total funds remaining in the Law Enforcement Reimbursement Fund at the end of the fiscal year. In municipalities that do not employ at least one full time law enforcement officer or do not have a contract with the county for patrol services, the reimbursement that would have otherwise been provided to the municipalities would be remitted to the county where the municipality is located.

If the unreimbursed funds in the Law Enforcement Reimbursement Fund (an estimated \$628,000) were provided to municipalities and counties according to the proposed formula, MMA estimates that qualifying municipalities would receive between \$31,000 and \$200 and counties \$21,000 to \$3,000 in additional revenues.

Proponents of the bill included the Maine Association of County Officials,

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Appropriations & Financial Affairs

LD 756 – An Act To Authorize a General Fund Bond Issue To Revitalize Downtown Areas, Support Cultural Tourism and Expand Maine’s Creative Economy. (Sponsored by President Edmonds of Cumberland Cty; additional cosponsors.)

This bill would sent out to the voters in November a proposed \$25 million bond issue, to be administered by the Maine State Cultural Affairs Council, that would, among other purposes, be used to revitalize urban downtown areas.

LD 757 – An Act To Authorize a General Fund Bond Issue To Promote Affordable Workforce Housing. (Sponsored by Sen. Brennan of Cumberland Cty; additional cosponsors.)

This bill would send out to the voters in November a proposed \$20 million bond issues to be administered by the Maine State Housing Authority for the purpose of land purchase and infrastructure construction for the development of affordable “workforce” housing.

LD 787 – An Act To Authorize a General Fund Bond Issue for the Enhanced Development of Public Geographic Information. (Sponsored by Rep. Koffman of Bar Harbor; additional cosponsors.)

This bill would send out to the voters a \$6 million bond proposal for the purpose of enhancing the program conducted through the Maine Library of Geographic Information that, among other activities, puts town tax parcel maps, municipal zoning systems, conservation and open space lands, etc., on widely-available on-line maps.

LD 794 – An Act To Authorize a General Fund Bond Issue To Allow Municipalities To Purchase Fishing Rights and Equipment. (Sponsored by Sen. Strimling of Cumberland Cty; additional cosponsors.)

This bill would send out to the voters a \$5 million bond proposal to assist municipalities in purchasing fishing rights and equipment.

LD 800 – An Act To Authorize a General Fund Bond Issue for the Land for Maine’s Future Program. (Sponsored by Sen. Andrews of York Cty; additional cosponsors.)

This bill would send out to the voters a \$75 million bond proposal to capitalize the Land For Maine Future program.

LD 806 – An Act To Authorize a General Fund Bond Issue To Encourage Rural High-speed Internet Access. (Sponsored by Rep. Pingree of North Haven; additional cosponsors.)

This bill would send out to the voters a \$2 million bond issue to provide matching funds to communities to make infrastructure improvements to support high-speed Internet access in underserved areas of the state.

LD 844 – An Act To Authorize a General Fund Bond Issue to Stimulate Maine’s Economy. (Sponsored by Sen. Bromley of Cumberland Cty; additional cosponsors.)

This bill would sent out to the voters a proposed \$120 million bond proposal designed to stimulate the economy. Among other elements of the total bond issue, \$15 million would be earmarked for the Municipal Investment Trust Fund and \$12 million would be earmarked for affordable housing.

Criminal Justice & Public Safety

LD 760 – An Act To Assist Municipalities in Recruiting Emergency Services Personnel. (Sponsored by Rep. Rector of Thomaston; additional cosponsors.)

This bill would require any municipality that makes available to any of its employees a group health plan to offer all emergency service employees access to that group health plan. That access would also have to be offered to all persons under contract to a

municipality to provide emergency services. The municipality would not be obligated to pay any portion of the premium payments associated with the offering unless required to do so by a collective bargaining agreement.

Education & Cultural Affairs

LD 556 – An Act To Require School Unions To Provide Transportation for Students. (Sponsored by Rep. Piotti of Unity.)

This bill would require the superintendent of all school unions to provide transportation for elementary school students for a part of or the whole distance to and from the elementary school, and, for secondary school students, for part of or the whole distance to the secondary school or other secondary schools with which the school union has contracted for secondary school privileges.

LD 564 – An Act To Amend the Laws Governing the Student Code of Conduct. (Sponsored by Rep. Grose of Woolwich; additional cosponsors.)

This bill would require all school systems to expand their existing required policies that define unacceptable behavior to include bullying, harassment and sexual harassment, and to further provide counseling services and training with respect to those unacceptable behaviors.

LD 675 – An Act To Require That Students Meet Learning Results Requirements before Entering Grade 9. (Sponsored by Sen. Nutting of Androscoggin Cty; additional cosponsors.)

This bill would require that by the 2007-2008 school year, all students entering grade 9 must be proficient in four of the Learning Result content areas, and by the 2009-2010 school year, all students entering grade 9 must be proficient in all eight Learning Result content areas.

Health & Human Services

LD 609 – An Act To Reconcile General Assistance Prescription Drug Payments with Changes in Federal Prescription Drug Card Benefits and with MaineCare Prescription Drug Payments. (Sponsored by Rep. Glynn of South Portland; additional cosponsors.)

This bill would prohibit municipalities from providing General Assistance benefits for certain prescription drugs to recipients of MaineCare, Medicare, Dirigo Health or other prescription drug plans when the particular prescription drugs are not covered by those insurance programs.

Judiciary

LD 321 – An Act Relating to Unlawful Housing Discrimination. (Reported by Sen. Hobbins of York Cty. for the Maine Human Rights Commission.)

State law currently prohibits housing discrimination for nine categories of renters, purchaser or other housing applicant. Those nine categories are: race, color, sex, physical or mental disability, religion, ancestry, national origin or familial status. This bill would add “receipt of public assistance” to the list.

LD 773 – An Act To Allow Municipalities To Collect Debts through the Placement of Liens on Property. (Sponsored by Rep. Jacobsen of Waterboro; additional cosponsors.)

This bill would allow municipalities to place liens on property to enforce debt payments owed to the municipality by the property owner.

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LEGISLATIVE HEARINGS

NOTE: The following schedule calls for a number of public hearings on bills that have not been printed as of yet. Those bills are referenced below by their “LR” number or as having “no LD”. If the bill has not been printed, it is impossible for the general public to know the bill’s content. We have included below those bond issue hearings that may have an impact on municipal government on the basis of their title.

Tuesday, February 22

Appropriations & Financial Affairs

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

Tel: 287-1635

With the Joint Standing Committee on Marine Resources

LD 794 – An Act To Authorize a General Fund Bond Issue To Allow Municipalities To Purchase Fishing Rights and Equipment. (Sponsored by Sen. Strimling of Cumberland Cty; additional cosponsors.)

LR 1902 – (No LD # yet) An Act Authorizing a General Fund Bond Issue To Preserve Maine’s Traditional Working Waterfront and Farming Economies by Ensuring Access to Working Waterfronts and Farmland.

2:30 With the Joint Standing Committee on Health & Human Services

LR 908 – (No LD # yet) An Act Authorizing a General Fund Bond Issue to Improve Community Support Services for Persons with Mental Illness.

3:00 With the Joint Standing Committee on Utilities and Energy

LD 806 – An Act To Authorize a General Fund Bond Issue To Encourage Rural High-speed Internet Access. (Sponsored by Rep. Pingree of North Haven; additional cosponsors.)

LR 1820 – (No LD # yet) An Act To Authorize a General Fund Bond Issue to Fight Global Warming through Energy Conservation.

Judiciary

Room 438, State House, 1:30 p.m.

Tel: 287-1327

LD 321 – An Act Relating to Unlawful Housing Discrimination. (Reported by Sen. Hobbins of York Cty. for the Maine Human Rights Commission.)

Wednesday, February 23

Agriculture, Conservation & Forestry

Room 206, Cross State Office Building, 2:00 p.m.

Tel: 287-1312

No LD – Governor’s Proposal to Charge a Fee for Burning Permits.

Appropriations & Financial Affairs

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

Tel: 287-1635

With the Joint Standing Committee on Agriculture, Conservation & Forestry

LD 35 – An Act to Authorize a General Fund Bond Issue in the Amount of \$75,000,000 for the Land for Maine’s Future Fund. (Sponsored by Sen. Brennan of Cumberland Cty; additional cosponsors.)

LD 800 – An Act To Authorize a General Fund Bond Issue for the Land for Maine’s Future Program. (Sponsored by Sen. Andrews

of York Cty; additional cosponsors.)

LR 1329 – (No LD # yet) An Act Authorizing a General Fund Bond Issue To Encourage Development of Maine’s Traditional Industries.

LR 2239 – (No LD # yet) Governor’s proposed bond bill relating the Land for Maine’s Future program.

1:00 p.m. With the Joint Standing Committee on Business, Research & Economic Development

LD 756 – An Act To Authorize a General Fund Bond Issue To Revitalize Downtown Areas, Support Cultural Tourism and Expand Maine’s Creative Economy. (Sponsored by President Edmonds of Cumberland Cty; additional cosponsors.)

LD 757 – An Act To Authorize a General Fund Bond Issue To Promote Affordable Workforce Housing. (Sponsored by Sen. Brennan of Cumberland Cty; additional cosponsors.)

LD 787 – An Act To Authorize a General Fund Bond Issue for the Enhanced Development of Public Geographic Information. (Sponsored by Rep. Koffman of Bar Harbor; additional cosponsors.)

LD 844 – An Act To Authorize a General Fund Bond Issue to Stimulate Maine’s Economy. (Sponsored by Sen. Bromley of Cumberland Cty; additional cosponsors.)

LR 1254 – (No LD # yet) An Act To Authorize a General Fund Bond Issue To Provide Funds To Support Economic Development.

LR 1708 – (No LD # yet) An Act To Authorize a General Fund Bond Issue To Stimulate Maine’s Economy.

LR 1774 – (No LD # yet) An Act To Authorize a General Fund Bond Issue To Fund the Municipal Investment Trust Fund.

LR 2244 – (No LD # yet) Governor’s proposed bond bill relating to economic development initiatives including: working waterfront and other marine related initiatives; agricultural irrigation, marketing and R & D; business loans; college career centers; biomedical R & D; New Centuries Community Program; housing and college tuition repayment.

Criminal Justice & Public Safety

Room 436, State House, 9:30 a.m.

Tel: 287-1122

LD 102 – An Act To Allow the Part-time Assignment of State Police Officers to Municipalities. (Sponsored by Rep. Blanchette of Bangor; additional cosponsors.)

LD 534 – An Act To Clarify the Authority of the Maine State Police. (Sponsored by Sen. Strimling of Cumberland County.)

Thursday, February 24

Appropriations & Financial Affairs

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

Tel: 287-1635

With the Joint Standing Committee on Natural Resources

LR 2241 – (No LD # yet) Governor’s proposed bond bill relating drinking water initiatives, wastewater disposal, dam repair, lead paint removal and hazardous chemical in secondary schools and Hospice related initiatives.

2:00 p.m. With the Joint Standing Committee on Transportation

LR 1529 – (No LD # yet) An Act To Authorize a General Fund Bond Issue for Shared-use Trails.

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HEARINGS (cont'd)

LR 2238 – (No LD # yet) Governor’s proposed bond bill relating to transportation related initiatives including: highway and bridges; industrial rail access program; small harbor improvement program and working waterfront; trails; aviation; and, transit initiatives.

Education & Cultural Affairs

Room 202, Cross State Office Building, 1:00 p.m.

Tel: 287-3125

LD 556 – An Act To Require School Unions To Provide Transportation for Students. (Sponsored by Rep. Piotti of Unity.)

Labor

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

Tel: 287-1333

LD 430 – An Act To Modify the Obligation To Bargain under the Municipal Public Employees Labor Relations Law. (Sponsored by Rep. Norton of Bangor; additional cosponsors.)

Utilities & Energy

Room 211, Cross State Office Building, 1:30 p.m.

Tel: 287-4143

LD 497 – An Act To Amend the Charter of the Boothbay Region Water District. (Emergency) (Sponsored by Rep. Bishop of Boothbay; additional cosponsor.)

LD 499 – An Act To Amend the Charter of the Boothbay Harbor Sewer District. (Emergency) (Sponsored by Rep. Bishop of Boothbay; additional cosponsor.)

Friday, February 25

State & Local Government

Room 216, Cross State Office Building, 10:00 a.m.

Tel: 287-1330

LD 286 – An Act To Eliminate the State Planning Office. (Sponsored by Rep. Joy of Crystal; additional cosponsors.)

LD 562 – An Act To Improve Public Understanding in Rulemaking. (Sponsored by Rep. Saviello of Wilton; additional cosponsors.)

GUNS 'N COPS (cont'd)

Maine County Commissioners Association, Maine Police Chiefs’ Association and MMA. Much of the testimony focused on the need for the state to acknowledge the efforts of municipalities and counties to enforce the state’s traffic laws by at a minimum ensuring that all of the revenue dedicated for reimbursing those entities is provided to those entities.

An issue raised by the law enforcement representatives focused on the inadequacy of the \$50 per diem to meet the actual cost associated with sending a law enforcement officer to court. Typically, the amount of pay and benefits provided for time spent in court is negotiated through union contracts. For the most part, the contract includes overtime pay and a minimum number of hours paid for time in court. For example, it is common for a contract to require a municipality to pay an officer required to show in court twice the regular salary and guarantee at least three hours pay at that rate, even if the law enforcement officer spends only fifteen minutes in the court house.

In a 1998 study conducted by MMA, it was estimated that municipalities spent an average of \$76 per day to send a law enforcement officer to court, and at that time were receiving a

HOPPER (cont'd)

LD 780 – An Act To Allow a Landlord To Discover Whether Sewer and Water Bills Have Been Paid. (Sponsored by Rep. Glynn of South Portland.)

This bill would require water and sewer utilities to provide information to landlords, upon request, regarding the delinquency of payments to the utilities by people renting property from the landlord. The requirement would only apply if liens against the property for nonpayment have been filed.

Legal & Veterans Affairs

LD 620 – An Act To Clarify the Liquor Enforcement Laws. (Sponsored by Rep. Barstow of Gorham; additional cosponsors.)

This bill would authorize law enforcement officers to enforce Maine’s liquor laws that were previously enforced by state liquor enforcement agents.

LD 777 – An Act To Enhance Enforcement of Liquor Laws. (Sponsored by Rep. Fisher of Brewer; additional cosponsors.)

This bill would authorize the Commissioner of the Department of Public Safety to appoint, with the consent of the local law enforcement agency, local law enforcement officers to enforce the liquor laws.

Natural Resources

LD 381 – An Act To Enhance the Safe Disposal of Household Hazardous Waste. (Sponsored by Rep. Curley of Scarborough; additional cosponsors.)

This bill would require the municipal officials in each county to designate an existing transfer station or recycling center to accept household hazardous waste for year-round, county-wide household hazardous waste disposal.

LD 608 – An Act To Assist Municipal Implementation and Enforcement of Storm Water Management Programs. (Sponsored by Rep. Koffman of Bar Harbor; additional cosponsors.)

This bill would add municipal storm water ordinances (which some municipalities must enact pursuant to the federal Clean Water Act) to the list of ordinances that a municipality may enforce using the “Rule 80K” land use enforcement procedures, under which a municipal code enforcement officer (rather than a lawyer) may prosecute ordinance violations in court.

State & Local Government

LD 286 – An Act To Eliminate the State Planning Office. (Sponsored by Rep. Joy of Crystal; additional cosponsors.)

This bill would eliminate the State Planning Office.

LD 562 – An Act To Improve Public Understanding in Rulemaking. (Sponsored by Rep. Saviello of Wilton; additional cosponsors.)

This bill would require the Departments of Agriculture, Food and Rural Resources, Conservation, Environmental Protection and Inland Fisheries and Wildlife to make available to the public primary sources of information that support the primary provisions of any rules those departments may promulgate.

Taxation

LD 791 – An Act Concerning the Taxation of Buildings in Which Nonprofit Organizations Are Housed. (Sponsored by Sen. Martin of Aroostook Cty; additional cosponsors.)

Current law requires a building that is owned and occupied by a charitable nonprofit organization to be used exclusively for the charitable purposes in order to be eligible for property tax exemption available to charitable organizations. This bill would provide the property tax exemption to the prorated parts of any building occupied by an eligible non-profit organization.

ADA (cont'd)

Other existing protections were unaffected by the Supreme Court decision. Those protections provide that those with a history of having a disability or those regarded as having a disability are still considered “disabled” for purposes of the ADA. The Maine employment discrimination rules have similar provisions.

The proposed MHRC rule states: “(3) Mitigating Measures. The existence of a disability is determined without regard to whether its effect can be mitigated by measures such as medication, auxiliary aids or prosthetic devices.”

The Supreme Court ruled in its 1999 decision that the glasses stay on. One reason for the Supreme Court’s ruling is that the alternative interpretation would expand by millions the number of people in the United States who would be considered disabled, although the ADA was only designed to cover a “discrete and insular minority.”

As Justice Ginsburg noted:

“The inclusion of correctable disabilities within the ADA’s domain would extend the Act’s coverage to far more than 43 million people. And person’s whose uncorrected eyesight is poor, or who rely on daily medication for their

wellbeing, can be found in every social and economic class; they do not cluster among the politically powerless, nor do they coalesce as historical victims. In short, in no sensible way can one rank the large numbers of diverse individuals with corrected disabilities as a ‘discrete and insular minority.’”

From a public policy standpoint, the MHRC position is somewhat confusing. The ADA was meant to tear down walls that were built on the stereotype that people with disabilities could not perform work to the same degree as non-disabled. The MHRC’s proposed rules would label as “disabled” thousands of Mainers who are fully functional members of the community, and who most people would not consider disabled as that term is typically used. Thus, those that are not disabled in the practical (and legal ADA) sense, are going to be placed into that category for Maine regulatory purposes. The proposed change would appear to expand litigation opportunities and cause confusion for employers, especially those who operate in multiple states. Finally, the proposed rule change, with its significant policy implications, would more appropriately be made by the Legislature. The Maine Human Rights Act is the proper place for policy changes of this nature.

The written comment period closes on February 24, 2005. Please contact MMA for a copy of the proposed rule or visit the MHRC website (www.state.me.us/mhrc/proposed%20rule%20changes.htm).

LD 1 CORNER (cont'd)

priation, and LD 1 defines the “property tax levy” entirely on the basis of appropriations.

The “property tax levy limit” established by LD 1 is this core municipal commitment multiplied by one plus the municipality’s total growth factor.

In response to your second question, LD 1 expressly allows the municipality to continue to use the overlay process, in the same manner and for the same purposes, even when the application of an overlay would have the effect of exceeding the property tax levy limit. It should be noted, however, that the application of an overlay when you commit your taxes this year will not increase your property tax levy limit for the purposes of the calculation of next year’s property tax levy limit. A year from now, the base that the town will be working with to determine its “property tax levy limit” will be this year’s limit, excluding any overlay.