

## Party Line Vote on TABOR Spending Limits

LD 1011, *An Act To Establish the Maine Taxpayers' Bill of Rights*, was presented to the Taxation Committee this week. The bill is modeled on Colorado's tax and expenditure limitation system, the strictest in the nation. The acronym for taxpayer bill of rights system is "TABOR", and this particular TABOR proposal is being advanced through LD 1011 as a legislative proposal and simultaneously advanced as a proposed citizens initiative by Mary Adams of Garland and the Maine Heritage Policy Center.

A full description of the LD 1011 TABOR proposal was provided in the December 2004 edition of the *Maine Townsman*. In summary, the proposal would establish both formula-driven limits on the year-to-year growth in governmental expenditures at all levels of government and extensive governance procedures that would have to be followed in order to increase any taxes or fees at all levels of government. That's the distinguishing feature of TABOR; it limits both year-to-year expenditure increases and year-to-year revenue increases.

The expenditure limits are controlled by a formula that is based on inflation (CPI) and the municipality's or school's population growth. In Maine, the result is local government spending limits that can be sharply positive or sharply negative depending on the demographics. According to an MMA analysis, some schools and municipalities would be facing spending growth allowances of negative 12% while others would be looking at positive growth allowances that approach 20% a year.

The revenue limiting system in TABOR is controlled by a governance system rather than by formula. In order

to raise any tax or fee, and in order to repeal any tax exemption, the Legislature or town meeting or town or city council would have to approve the increased tax or fee (or the repealed exemption) by a two-thirds "supermajority" vote and then the proposal would have to be approved by the voters at referendum. It is a recipe designed to prevent any

changes to the tax code.

Like the Palesky proposal that preceded it, the TABOR proposal was adopted as a constitutional amendment in Colorado but is only being offered as a statutory change in Maine. Accordingly, none of the restrictions it would impose on state spending or taxing deci-

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## Showing Acreage on Tax Bills

In the April 1 edition of the *Legislative Bulletin*, a report was provided on LD 1244, *An Act To Require That Property Tax Bills Specifically Note the Amount of Land Being Taxed*. As the title suggests, the bill would require that all property tax bills identify the acreage of land that is subject to taxation. The sponsor of the bill, Rep. Deb Hutton (Bowdoinham), submitted the bill in response to a constituent of hers in Bowdoin who had a problem tracking down the assessing information that formed the basis of his property tax bill.

At the request of the Tax Committee, MMA conducted a snapshot survey to determine how many municipalities include acreage information on the tax bill. In a two-day response period, 54 municipalities responded to the survey. 24% of the respondents indicated they already provided acreage information on the property tax bills, 76% indicated they did not. The most common comment provided in the responses suggested that municipalities would experience additional start-up costs to integrate their tax billing software with their assessing software if they had to meet the requirement. There was also a general question

about whether the additional information is necessary on the tax bill where it is so generally available as a matter of public record. Some respondents questioned how the and the property tax bills could be more accurate with respect to acreage than the property deeds, which are not entirely accurate themselves.

On Tuesday this week, Rep. Hutton presented an amendment to her approach that was constructed with the assistance of MMA. The amendment would specify in the pertinent section of tax law that an assessor, the municipal officers or the municipal official with custodial authority over the assessing records must make the pertinent assessing records available to the property owner in a timely manner when requested to do so. It is a restatement of the Right to Know law but moved over to the tax statutes where it may be more easily found.

By a vote of 8-2, the Committee voted "ought to pass" on Rep. Hutton's amended version of LD 1244.

MMA appreciates the efforts of Rep. Hutton to develop a response to her constituent's issue without imposing any additional mandates on municipal government.

# Volunteer Firefighter Pay Clarification Bill Supported

On Tuesday of this week the Labor Committee held a public hearing on LD 1170, *An Act to Exempt Fire Departments from Biweekly Pay Requirements for Volunteer Firefighters*.

As sponsored by Sen. Christine Savage of Knox Cty., the bill clarifies that volunteer firefighters may be paid no less frequently than twice per year. The need for the clarification arose as the result of the payment mechanism many municipalities use to reimburse volunteer firefighters. Municipalities with volunteer fire departments typically reimburse firefighters either through an annual stipend or on a per-call basis. While the municipal officers can clearly establish the schedule by which all stipends that are provided to municipal officials will be made available, when it comes to per-call compensation, municipal discretion on the frequency of payment is less certain. Since the per-call mechanism closely resembles a per-hour salary mechanism rather than a stipend, it can be argued that the existing state law requires payments no less often than every two weeks. That is exactly what happened in one of the towns in Sen. Savage's district.

According to the testimony provided by Sen. Savage, the legality of paying volunteer firefighters less frequently than every sixteen days arose when a municipal treasurer questioned the community's discretion to pay volunteer firefighters according to a different timing schedule since the per-call

mechanism used by the community closely resembled an hourly wage. This interpretation of the law created additional administrative burdens for the municipality, because paying volunteers every two weeks in some circumstances was more costly than the total value of the reimbursement provided. For that reason, as well as a belief that most communities with voluntary departments were already paying firefighters less frequently, Sen. Savage sponsored LD 1170 to clarify in law that volunteers could be paid less frequently.

The Maine Fire Chief's Association (MFCFA) and the Maine Municipal Association both provided testimony in favor of LD 1170. The representative of MFCFA stated that the change was necessary because it would legitimize current practice.

Municipal officials supported the bill because they believe that the per-call mechanism is entirely different from a per-hour wage mechanism when applied to the compensation provided to volunteer firefighters. While a municipality might pay \$10 per-call, a volunteer might respond to only one call per month. Municipal officials believe that the proposal in LD 1170 would create an administrative system for reimbursing volunteer firefighters that makes more sense given the aggregate value of the compensation their volunteers receive.

After the public hearing the Labor Committee held a work session on LD 1170, and unanimously voted "ought to pass as amended" on the bill. The Committee amendment makes a technical change to the printed bill to ensure that municipalities can pay their volunteer firefighters as frequently as they determine appropriate, but no less frequently than twice per year.

## TABOR (cont'd)

sions would be legally enforceable.

Two members from the public spoke in favor of LD 1011. Mary Adams told the Committee that she was in the process of gathering signatures on a citizens

initiative that would do exactly what LD 1011 would do. She said the group she is working with has collected 30,000 of the 50,000-plus signatures needed to present the petition to the Legislature next January, and she is confident that she will be able to collect the remaining signatures necessary by her October 21<sup>st</sup> deadline. The Committee was told that the public response in Maine to the strict discipline of TABOR has been overwhelming, particularly after the most recently adopted state budget. Adams' presentation to the Committee did not focus on the details of the bill. Instead, it was described as a way to bridle the spending habits of government – put a bit in government's mouth – in order to hold back spending by lobbyists and special interests who stalk the halls of the State House.

A newcomer to the spending limit debate – Maine Motor Transport Association – also spoke in favor of LD 1011. Apparently this group that represents the trucking industry in Maine would like to see sharp limits placed on the annual growth of the Highway Fund and spending on transportation infrastructure.

The Maine Citizen Leadership Fund, MMA and the Maine Education Association all testified in opposition to LD 1011. The testimony focused on the negative impacts of TABOR in Colorado, where TABOR is held responsible for significant drops in that state's quality-of-life ratings. The Committee was told that even some previous supporters of TABOR in Colorado are advocating for its repeal there.

MMA's testimony focused on the inappropriate public policy of linking spending allowances to population changes at the local level. A population-based formula would result in required budget cutbacks in both the rural and urban areas of the state (which are both experiencing out-migration) and disproportionately large budget allowances in Maine's suburban areas.

The property-based growth allowance created in LD 1, which was based on Massachusetts' "Proposition 2 1/2", is a much more rational approach to a spending limit system for a state with the demographic profile of Maine.

MMA also suggested that municipi-

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### Legislative Bulletin

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# Statewide Building Code and Licensing Home Contractors

The Business, Research and Economic Development Committee (BRED) spent much of last week discussing construction and building codes. Their decisions reflect a desire to continue to move forward on some issues, albeit very slowly.

The first bill is LD 472, *An Act to Amend the Statewide Building Code*, sponsored by Representative Ted Koffman (Bar Harbor). This bill continues last session's legislation which established the Maine Model Building Code. Pursuant to that law, no town may adopt a building code other than the Maine Model Building Code. Yet, no town is obligated to adopt the Maine Model, nor is any town obligated to change their existing code.

The Maine Model Building Code has not yet been crafted, but must be predicated on the International Code Council's 2003 Residential Code and [Commercial] Building Code. LD 472 would similarly establish the 2003 ICC Existing Building Code as the rehabilitation code for Maine. Basically, rehabilitation codes provide greater flexibility in determining how the standard structural requirements of a building code are met. Many believe that one reason for the lack of development in urban downtown buildings, particularly the upper floors, is the rigid requirements of local building codes.

Local officials believe the state needs to do a much better job of looking internally at its myriad of obstacles to reconstruction in downtown buildings. The Maine Human Rights Commission's interpretation of the Americans With Disabilities Act, the Maine Fire Marshall's Office and the Maine Historic Preservation Commission each present obstacles to the redevelopment of existing buildings in our urban centers. Many architects, builders and local officials point to these state-level regulatory burdens as the more significant impediments to redevelopment of older buildings.

Nevertheless, local officials support the bill. It is not a mandate in that no town is obligated to adopt this rehabilitation

code, but if one is adopted it must be the Maine Model. This gently moves the state toward more uniformity without resorting to mandates. MMA supported the thrust of the bill and municipalities will be pleased that it has received a unanimous "ought to pass" vote from the Committee.

The Committee also spent a great deal of time reviewing a bill that would license home contractors. LD 1306, *An Act to License Home Building and Improvement Contractors* would pretty much do what the title says. Currently, home builders are not licensed by the state as are electricians or plumbers. The bill would establish a new licensing board, set fees, qualifications and other regulatory requirements.

The aim of the bill, which is basically a refile of LD 1551 from last session, is to prevent some of the crooked dealing by some contractors as outlined in extensive public testimony last week.

While all of the Committee members seemed sympathetic to the victims of crooked contractors, they were evenly divided on the appropriate remedy. Some felt that the state had a role in regulating this industry as it does others industries. A primary argument in favor of the bill is the significance of the investment for most people. If barbers need to be licensed for a \$10 haircut, then contractors should be licensed for a \$100,000 home.

Further, the relative bargaining positions between contractors who enter into these construction agreements every day and individual citizens who only do this once or twice in a lifetime are very uneven. Finally, it is very similar to other trades like electricians and plumbers who are licensed. Even municipal home inspectors are certified by the state, so why shouldn't the home builder be similarly certified?

On the other side were those who felt that the extent of the problem was not broad enough to warrant state intervention. Instead, the few bad cases that undoubtedly do occur should be

more aggressively prosecuted and the penalties should be higher. Practical objections to the plan were its rigid contents and the fact that there is no uniform state building code as there is a state plumbing code and electrical code. Further, the costs for a licensing board are quite extensive, even if funded by license fees.

Ultimately, as with many difficult issues where there is agreement that a problem exists but no agreement on a solution, the Committee was able to reach some middle ground. The Committee voted (although not unanimously) to have the Department of Professional and Financial study a *registration* system for contractors. Currently, 5 practices have a registration system rather than a licensing system (for example, door to door salesman).

This kind of system would essentially allow the state to track, but not qualify, home contractors. Presumably, once each contractor had a registration number, then the state could attach both stars (such as a voluntary certification program) or demerits (such as previous bankruptcies or fraud convictions) to a registrant. The hope is that this would better enable consumers to find qualified contractors and avoid the crooks. The fear is that a registration system will be a costly but ineffective system that actually lulls consumers into thinking that all registered contractors are fully qualified.

## Excise Tax

Several bills were submitted this legislative session that would have changed in several different ways the motor vehicle excise tax system. In previous actions, the Committee whittled the several bills down to one "vehicle" bill — LD 345, *An Act to Base the Excise Tax on Motor Vehicle on the Purchase Price*.

The bill kicked around the Taxation Committee for many weeks. Each time it came up for a work session, the Committee was told that the sponsor (Sen. Bruce Bryant of Oxford County) was working on an amendment to the printed bill.

Finally, on Thursday last week, the Committee acted on LD 345 by voting unanimously "ought not to pass".

# Committee Makes Recommendations on Constitutional Tax Changes

Since the “Joint Select Committee on Property Tax Reform” began this legislative session nearly five months ago, various changes to Maine’s Constitution regarding property taxes have been proposed. Several of those proposals were developed by the Joint Select Committee, many others have been submitted over the last several months as independent legislative proposals. Most of these changes would send out to the voters a proposed amendment to the Constitution. Others attempt to amend Maine’s property tax statutes to provide tax breaks to certain classes of property owners, typically the elderly, without changing the Constitution.

On April 13, the Taxation Committee held a work session designed to sort out which of the nine proposals on the table would be recommended to the full Legislature. Here’s the scorecard.

**LD 2, Resolution, Proposing an Amendment to the Constitution of Maine to Limit the Rate of Change in Taxable Value of Homestead Land.** Originally proposed by Governor Baldacci as a companion bill to LD 1, this proposed constitutional amendment would create a so-called “LAV”, or limitation on assessed valuation system. Often confused with “current valuation” systems (which it is not), this measure would limit the year-to-year change in the assessed value of the building lot under a homesteader’s primary residence so that the value of the building lot could not increase more than the rate of inflation as measured by the Consumer Price Index (CPI). The limitation in value would not affect the municipality’s state valuation for the purpose of determining school subsidy, the county assessment, or municipal revenue sharing.

In some versions of LD 2, the property owners enrolled in the program would have to pay a financial penalty to the town when the property is sold in order to mitigate the general mill rate increase associated with limiting the natural growth in assessed value.

**Committee Recommendation:**

Tabled without substantive discussion.

**LD 135, An Act to Create a Senior Tax Rebate Program for Established Residents,** sponsored by Sen. Ken Gagnon (Kennebec Cty.). As printed, this bill would create a local option authority to establish a tax rebate program for households where the owners are at least 62 years of age and have resided in the home for at least 10 years. The level of the rebate would be up to the municipality except that it could not exceed 50% of the tax obligation. Also, the local rebate combined with any state-level circuit breaker rebate could not exceed 60% of the tax obligation.

At the work session, Sen. Gagnon presented the Committee with an amendment to the printed bill that was designed to remove some of the more significant constitutional problems with the original version. Under the amendment, any municipality would be authorized to adopt an ordinance that established a system whereby elderly property taxpayers and renters would become eligible for cash rebates from the town. The four statutory requirements of this local option circuit breaker program would be: (1) the benefits could only be provided to claimants who are at least 62 years old; (2) the claimant must have a “homestead” in the municipality; (3) the benefits must be provided to both owners and renters of “homesteads”; and (4) the distribution of benefits must be means-tested; that is, the system must provide greater benefits proportionately to lower income claimants. The degree to which the benefits would be limited to any maximum percentage of the claimant’s total property tax bill would be up to the community to decide by local ordinance.

**Committee Recommendation:** “Ought to Pass as Amended” by a 7-2 vote.

**LD 297, Resolution, Proposing an Amendment to the Constitution of Maine to Allow the Legislature to Authorize Municipalities to Adopt a Property Tax Assistance Program That Reflects a**

*Claimant’s Ability to Pay.* This proposal was developed by the Joint Select Committee on Property Tax Reform and authorizes municipalities to create locally paid for, local option circuit breaker programs.

**Committee Recommendation:** Unanimous “Ought Not to Pass”

**LD 298, Resolution, Proposing and Amendment to the Constitution of Maine to Authorize the Legislature to Allow Municipalities to Exempt from Property Tax a Portion of the Value of Homesteads.** This proposal was also developed by the Joint Select Committee on Property Tax Reform and authorizes municipalities to create locally paid for, local option homestead exemptions.

**Committee Recommendation:** Unanimous “Ought Not to Pass”

**LD 902, Resolution, Proposing an Amendment to the Constitution of Maine to Change the Method of Calculating Property Value to Preserve Home Ownership in Maine.** Sponsored by Senator Jon Courtney (York Cty.), this proposal would establish the “welcome stranger” method of assessing property modeled after California’s Proposition 13. The proposal would repeal the “just value” method of assessing real property and replace it with a system that would lock-in the property’s assessed value as of April 1, 2006, and cap any increases in that assessed value at the level of the most recent Consumers’ Price Index (CPI), except that adjustments to those assessed values could be made to reflect the just value of any improvements or degradations to the property. Upon a change of ownership, the assessed value would be adjusted to the just value of the property or its purchase price, whichever is higher.

**Committee Recommendation:** Tabled without substantive discussion

**LD 1009, Resolution, Proposing an Amendment to the Constitution of Maine to Allow Real Estate to be Valued Differently Based on the Residency of the Owner.** This proposed constitutional amendment is sponsored by Sen. Karl Turner (Cumberland Cty.) and would fix the taxable value of property owned by Maine residents until such a time as the property is transferred to a non-resident.

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(The bill summaries are written by MMA staff and are not necessarily the bill's summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the *Legislative Bulletin* to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, [www.memun.org](http://www.memun.org).)

### **Agriculture, Conservation & Forestry**

LD 1309 – An Act To Exempt Agricultural Guard Dogs and Herding Dogs from the Barking Dog Ordinances. (Sponsored by Rep. Trahan of Waldoboro.)

This bill would require all municipal dog barking ordinances to include an exemption for agricultural guard dogs.

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

LD 1445 – An Act to Protect the Integrity of Maine State Housing Authority Funds. (After Deadline) (Sponsored by Rep. Adams of Portland.)

This bill would allow the Maine State Housing Authority (MSHA) to withhold or revoke the funds granted to any person or organization receiving housing funds from the Authority if that person or organization violates any health, safety or sanitation standards of MSHA or the municipality in which the subject housing is located.

LD 1508 – An Act To Regulate Fire Alarm Contractors. (Sponsored by Sen. Nass of York Cty.)

This bill would create a comprehensive system to license all contractors that install fire alarm systems. Within the comprehensive scheme, the bill would prohibit a municipality from requiring fire alarm system contractors to be municipally licensed. The bill would also prohibit municipalities from issuing a permit for a commercial fire alarm system unless the municipality is satisfied that the person applying for the permit complies with the licensing requirements.

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

LD 1447 – An Act To Increase Civil and Criminal Penalties for Animal Cruelty. (Sponsored by Rep. Thompson of China; additional cosponsors.)

This bill would increase the civil and criminal fines for cruelty to animals for the first and second offence, and create a higher-tier fine ranging from \$5,000 to \$10,000 for a third or subsequent offence.

LD 1521 – An Act To Clarify Law Enforcement Procedures For Fatal Motor Vehicle Accidents. (Sponsored by Rep. Duplessie of Westbrook; additional cosponsors.)

This bill would establish the primacy of the jurisdiction of the State Police over investigations of fatal motor vehicle accidents when evidence suggests that a surviving operator of a motor vehicle involved in the accident violated a motor vehicle operating law.

LD 1550 – An Act To Establish the Arsonist Registration Act. (After Deadline) (Sponsored by Rep. Mazurek of Rockland; additional cosponsors.)

This bill would create an arsonist registration system similar to the sex offender registration system. Specifically, all persons convicted of the crime of arson would be required to register with the State Bureau of Identification and every law enforcement agency (municipal police department or county sheriff if there is no applicable municipal police department) with jurisdiction over the municipality where the convicted arsonist is domiciled, works, and goes to school.

### **Education & Cultural Affairs**

LD 1349 – An Act To Encourage Neighborhood Schools and To Minimize Sprawl Caused by School Siting. (Sponsored by Rep. Piotti of Unity; additional cosponsors.)

This bill would require all new schools to be sited in either "growth areas" designated by a municipal comprehensive plan, an area served by a public sewer system, a "census designated place", or a municipal compact area. Absent any of those options, the municipality where a new school is sited must adopt or amend its comprehensive plan to create a "growth area" around the new school, as well as a capital improvement plan that would create certain infrastructure improvements around the new school.

LD 1381 – An Act To Update Teachers' Minimum Salaries. (Sponsored by Sen. Mitchell of Kennebec Cty; additional cosponsors.)

This bill would establish a minimum teacher's salary at \$30,000 a year starting in FY 06, and that minimum base salary would have to be increased annually by the Consumer Price Index.

LD 1407 – An Act To Allow Municipalities To Offer Subsidies to Parents To Send Their Children to Other Schools. (Sponsored by Rep. Daigle of Arundel; additional cosponsors.)

This bill would allow municipalities to offer a subsidy to a parent of a public school student so the student could attend an accredited school other than the public school serving the community where the student resides.

### **Judiciary**

LD 301 – An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws. (Reported by Rep. Koffman of Bar Harbor for the Committee to Study Compliance with Maine's Freedom of Access Laws.)

This bill would create a permanent 13-member "Freedom of Access" Committee, generally charged with the responsibility of overseeing compliance with Maine's "Right to Know" law at all levels of government, assisting the Legislature in a long-term obligation established during the last legislative session to review all exemptions to the definition of "public record", and otherwise make recommendations for changes to the Right to Know law. The bill also would create a position of "public access ombudsman" within the Attorney General's Office. The duties of the ombudsman would be to prepare educational materials on the Right to Know law, respond to inquiries from the public and public agencies, resolve complaints regarding the Right to Know law, and make recommendations to the Legislature about how to improve the freedom of access laws. The ombudsman would also be responsible for preparing an annual report to the Freedom of Access Committee regarding the number of inquiries and complaints received with respect to each level of government.

LD 466 – An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws Concerning Attorney's Fees. (Reported by Rep. Koffman of Bar Harbor for the Committee To Study Compliance with Maine's Freedom of Access Laws.)

This bill would authorize Maine's courts to award attorney's fees and litigation costs to the "wholly prevailing party" in any lawsuit regarding the enforcement of the Right to Know law if the court determines that the failure to comply with the Right to Know law was committed in bad faith or the request for access to meetings or public records was "frivolous, vexatious or without merit".

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LD 467 – An Act To Implement the Recommendations of the Committee To Study Compliance with Maine’s Freedom of Access Laws Concerning Personal Contact Information. (Reported by Rep. Koffman of Bar Harbor for the Committee To Study Compliance with Maine’s Freedom of Access Laws.)

This bill would provide a uniform exception to the definition of “public record” in Maine’s Right to Know law with respect to the personal contact information of public employees. “Personal contact information” is defined as a public employee’s home address, telephone number, fax number, cellular phone number and pager number. The exception would not apply to elected officials.

LD 1275 – An Act To Protect Certain Private Information Submitted to Municipalities. (Sponsored by Rep. Bierman of Sorrento; additional cosponsors.)

This bill would exempt from the freedom of information laws the e-mail address of individuals obtained by municipalities unless the municipality also obtains the express permission of the individual to release the e-mail address.

LD 1409 – An Act To Assist in the Investigation and Prosecution of Theft Offenses. (Sponsored by Rep. Rosen of Bucksport; additional cosponsors.)

This bill would allow local police officers to investigate and assist in theft investigations in other communities if there is probable cause to believe that the thefts are being perpetrated in multiple municipal jurisdictions.

LD 1559 – An Act To Adopt the Uniform Environmental Covenants Act. (Sponsored by Sen. Hobbins of York Cty; additional cosponsors.)

This bill would adopt the Uniform Environmental Covenants Act to provide a systematic approach to adoption and recording of environmental covenants, such as deed restrictions. The bill has been prepared by a nationwide organization that works on creating technical uniformity among the laws of the individual states.

### **Legal & Veterans Affairs**

LD 1026 – An Act To Provide Uniform Voter Verification and Recount Requirements for Voting Machines. (Sponsored by Rep. Pingree of North Haven; additional cosponsors.)

This bill would require all voting machines to be able to produce a paper record that allows a voter to verify a vote before it is cast, including special voting machines that are currently exempt from that requirement that are designed to assist voters with certain disabilities.

LD 1266 – An Act To Ensure Integrity in the Voting Process. (Sponsored by Sen. Edmonds of Cumberland Cty; additional cosponsors.)

This bill would make a number of changes to election law, including: (1) requiring the municipal registrar to allow election-day registration at every voting place; (2) requiring municipalities to provide election training biennially to all election workers and require all newly-hired election officials to receive the training before working at any election; (3) requiring all municipalities with a population of 500 or more inhabitants to open their polling places on election day no later than 9:00 a.m.; and (4) creating an “ongoing absentee voter status” that would allow voters to enroll into a system of permanent absentee voting status.

LD 1281 – An Act To Ensure That Direct Initiatives Have Local Support. (Sponsored by Rep. Clough of Scarborough; additional cosponsors.)

This bill would prohibit a statewide citizen petition to be put on a ballot more frequently than once every five years and further prohibits political action committees from accepting out-of-state contributions for initiated campaigns.

LD 1388 – An Act To Amend Maine Election Law by Instituting a Statewide Vote-by-mail System. (Sponsored by Rep. Glynn of South Portland.)

This bill would amend the law governing voting by absentee ballot to require all requests for absentee ballots to be made directly by the absentee voter either in person, by telephone or by mail. In addition, the absentee voter must return the absentee ballot in person or by mail. The bill would repeal the process whereby immediate family members or third parties could either obtain or return the absentee ballot on behalf of the absentee voter.

LD 1436 – An Act To Encourage a Vote-by-Mail System in Maine. (Sponsored by Rep. Glynn of South Portland; additional cosponsor.)

This bill would require municipal election clerks to mail absentee ballots and return envelopes to all registered voters in order to encourage a statewide voting-by-mail process. The bill also establishes that a municipal election clerk commits a Class E crime if that clerk, when a person has voted by absentee ballot in the clerk’s presence, signs the clerk’s name to an improperly completed affidavit on the absentee ballot return envelope.

LD 1514 – An Act To Enhance the Transparency of Maine’s Elections. (Sponsored by Rep. Pingree of North Haven; additional cosponsors.)

This bill would require after each statewide election the random sampling of .05% of all the electronic voting machines in the state for the purposes of conducting a manual vote recount to test the voting machine’s accuracy.

### **Natural Resources**

LD 582 – An Act To Change the Effect of Local Ordinances on the State. (Sponsored by Sen. Bromley of Cumberland Cty; additional cosponsors.)

Current law provides that municipal ordinances that are consistent with an approved comprehensive plan apply to development projects conducted by the state, unless the Governor chooses to waive any or all municipal standards. This bill would provide that municipal zoning, subdivision, or site plan review ordinances are only advisory with respect to the state except when those ordinances have been found to be consistent by the State Planning Office, and in those circumstances three types of state development would be subject to the municipal ordinances: building development, parking facilities, and publicly-owned structures. State highway maintenance facilities, state or state-aid highways, bridges, railroads or trails would not be subject to the standards in municipal ordinances.

LD 1265 – An Act To Protect Aquifers. (Sponsored by Sen. Mitchell of Kennebec Cty; additional cosponsors.)

This bill would require public and private water companies to map all areas of contribution and recharge areas for wells, and in some cases potential wells, in “stratified drift aquifers”. The bill would also require municipalities in which an aquifer protection area is located to adopt regulations for aquifer protection, and require the Department of Environmental Protection to develop recommended land use controls in aquifer protection areas.

LD 1535 – An Act Making Improvements to the Laws Regarding Local Land Use Ordinances. (Sponsored by Rep. Koffman of Bar Harbor; additional cosponsors.)

This bill would make a number of substantive changes to the state’s land use planning laws that pertain to municipalities. Specifically, the bill would: (1) require the municipality’s “implementation program” of its comprehensive plan to include something about the municipality’s “full range of spending and borrowing powers”; (2) establish as a matter of state policy that land use planning and regulation is a shared responsibility of state and local government because of “increasing population in many regions of the state, environmental considerations that cross municipal boundaries, the complexity of modern development, and the need to combat sprawl”; and (3) control all municipal “rate of growth ordinances” (or building permit limitation ordinances) by requiring them to: (a) be temporary in duration (generally five years, with a

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possible three-year extension); (b) be based on a demonstration of need included in the municipality's comprehensive plan, complying with a rating system developed by the State Planning Office; (c) include exemptions for affordable housing and houses built on subdivision lots given to family members by the subdivider; (d) distribute the building permits in two equal distributions throughout the year, with certain required provisions for carrying over undistributed permits. The bill would authorize more restrictive and less state-controlled rate of growth ordinances if they are applied only to designated rural areas of the municipality and not applied to the municipal "growth areas".

**LD 1558 – An Act Concerning Storm Water Management** (Sponsored by Sen. Cowger of Kennebec Cty; additional cosponsors.)

This bill would make a number of changes to the stormwater management laws. The bill would: (1) give rulemaking authority to the Department of Environmental Protection (DEP) to provide exemptions or relaxed permitting systems to discharges of stormwater from surface and subsurface wastewater disposal systems if the discharges will not have a significant adverse effect on the quality or classification of waterbodies; (2) recalibrate the development trigger that requires stormwater permitting, which is currently structured on the basis of the number of square feet of impervious surface created (e.g., 20,000 sq. ft.) or the number of acres disturbed (e.g., 5 acres), to an across-the-board 1 acre of disturbed area; (3) remove the current language restricting the enforcement of stormwater quality standards to limited areas (i.e., "the direct watersheds of waterbodies most at risk from development and in sensitive or threatened geographic regions or watersheds"), making the enforcement of the stormwater quality standards apply statewide; (4) restructure the fees for stormwater permits; and (5) authorize the DEP to require the owners of developed areas that meet the definition of "significant existing source of stormwater" implement stormwater management systems.

**LD 1574 – An Act To Assist Towns with the Implementation of the Laws Governing Growth Management.** (Sponsored by Sen. Edmonds of Cumberland Cty; additional cosponsors.)

This bill would define the term "consistent" as that term applies to the requirement that an ordinance be consistent with a comprehensive plan. According to the bill, the term "consistent" applies to elements of any land use ordinance that are either "sufficient" or a "necessary contribution" or "increases the probability" of causing the implementation of a policy or recommendation of a comprehensive plan. Any provision of an ordinance that "has no effect on" or "interferes with" or "prevents" the implementation of a policy or recommendation in a comprehensive plan would be deemed "not consistent" with the comprehensive plan. The bill would also authorize municipalities to create a separate "fund for community preservation", the funds from which would be dedicated to acquiring, creating, preserving or maintaining open space and waterfront access, historic resources, recreational lands, affordable housing or downtown or village areas. The bill would also create the statewide Maine Community Preservation Trust Fund, which would be capitalized with \$20 surcharges on Registry of Deeds fees and \$10 surcharges on the recording fees for municipal lien certificates. Municipalities could apply for matching grants for their local projects from the statewide Trust Fund.

### **State & Local Government**

**LD 1491 – An Act Requiring a Municipality To Provide Proof of Ownership before Selling Acquired Property.** (Sponsored by Rep. Jackson of Fort Kent; additional cosponsors.)

This bill would require municipalities to provide proof of ownership before it sell any tax acquired property, and further require any municipality that misrepresented ownership of the property to refund to the "injured party" all costs incurred.

**LD 1536 – An Act To Reduce Property Taxes by Reforming County Government.** (Sponsored by Rep. Merrill of Appleton; additional cosponsors.)

This bill would establish various procedures designed to consolidate Maine's 16 counties into 8 "county districts". The counties of York, Cumberland and Aroostook would retain their geographic borders, although, they too, could become "county districts". The remaining 13 counties would become consolidated groups of 2, 3, or 4 existing counties. The actual consolidation of several counties into one would have to be approved through a referendum vote of voters in the affected counties. The bill would also establish certain procedures by which any county district could subsequently transfer to the state its responsibilities to provide county jails.

**LD 1563 – An Act To Amend the Revaluation Process by Municipalities.** (Sponsored by Sen. Sullivan of York Cty; additional cosponsors.)

This bill would require that if the municipality revalues a portion of the municipality, that portion may not be revalued again until all the other portions of the municipality have been revalued.

### **Taxation**

**LD 1437 – An Act To Broaden the Sales Tax Base and Lower the Sales and use Tax and Service Provider Tax Rates.** (Sponsored by Rep. Percy of Phippsburg; additional cosponsors.)

This bill would repeal all sales tax exemptions, extend the sales tax to a full range of services, and reduce the general sales tax rate from 5% to 2%.

### **Transportation**

**LD 1544 – An Act To Exempt Vehicles Hauling Equipment Used for Timber Harvesting from Certain Restrictions Posted on Roads.** (Sponsored by Rep. Jackson of Fort Kent; additional cosponsors.)

This bill would exempt vehicles used to transport logging equipment from any weight limit road posting requirements in eastern, northern and western Maine on weekends from June through August.

### **Utilities & Energy**

**LD 1373 – An Act To Implement Emergency Medical Dispatch Services for E-9-1-1 Calls.** (Sponsored by Rep. Adams of Portland; additional cosponsors.)

This bill would require the Emergency Services Communication Bureau within the Public Utilities Commission to adopt rules governing the comprehensive certification, discipline, probation and decertification of all emergency medical dispatchers who respond to E-911 calls. Beginning January 1, 2007, no person or agency could provide emergency medical dispatch services unless certified and in accordance with the rules. The bill provides the substance and scope of the required rules.

## **LEGISLATIVE HEARINGS**

*NOTE: Generally speaking, the Legislature is taking a break during school vacation week. Some legislative committees will be conducting work sessions. The only scheduled public hearings on municipally-related issues are scheduled below.*

**Friday, April 22**

### **Natural Resources**

**Room 214, Cross State Office Building, 9:30 a.m.**

**Tel: 287-4149**

**LD 1506 – An Act To Update the Laws Governing Borrow Pits and Quarries.** (Sponsored by Sen. Nass of York; additional cosponsors.)

**LD 1265 – An Act To Protect Aquifers.** (Sponsored by Sen. Mitchell of Kennebec Cty; additional cosponsors.)

## TABOR (cont'd)

pal officials don't buy into the claim of LD 1011 supporters that two-thirds voting requirements plus referendum ratification is necessary for any fee to be increased at the local level. Maine's long history of open-debate and majority voting at the local level has certainly not proved to be a failure because of rampant or uncontrolled fee increases at the local level.

Finally, MMA asked the Committee not to layer yet another spending limitation system on top of the complexities of the system created by LD 1. The LD 1 system certainly should be given time to be implemented and evaluated before any new system is considered.

On Thursday this week the Tax Committee voted on LD 1011. Of the seven or eight Committee members present (out of 13), the vote split exactly down party lines, with the Republicans voting in favor of LD 1011 and the Democrats voting against it.

Apparently, sticking to your position on something you've developed is not the first order of business for some legislators. Several members of the Taxation Committee who were also on the Joint Select Committee on Property Tax Reform, and personally involved in the development of the spending limit system in LD 1, are now repudiating the LD

1 system they created in favor of TABOR. There is apparently an indifference on the part of some legislative TABOR supporters with respect to how many hoops they expect the towns to jump through in the political environment of spending limits.

## COMMITTEE (cont'd)

All property owned by non-residents would continue to be assessed at the property's just value.

**Committee Recommendation:**  
Tabled without substantive discussion.

**LD 1060, Resolution, Proposing an Amendment to the Constitution of Maine to Value Land Based on Its Current Use.** Sponsored by Sen. Scott Cowger (Kennebec Cty.), this proposal would amend the constitution to require all property in Maine, including land, structures and personal property, to be assessed at its "current use" value, although it is not clear what that means.

**Committee Recommendation:**  
Unanimous "Ought Not to Pass"

**LD 1134, An Act Providing Senior Citizens with an Optional Deferred Payment Plan for the Payment of Property Taxes.** Sponsored by Rep. Charles Harlow (Portland), This bill would allow municipalities to freeze the property taxes of homeowners who are at least 65 years

of age and have an income less than 300% of the federal poverty level. The unpaid taxes would be deferred until the property is sold or transferred. To offset administrative costs, the municipality would be authorized to increase the general property taxes on residential property in an amount not to exceed 2% of the value of the deferred taxes.

**Committee Recommendation:**  
Unanimous "Ought Not to Pass"

**LD 1199, Resolution, Proposing an Amendment to the Constitution of Maine to Limit Property Valuation Increases for Persons 65 Years of Age or Older or Disabled Persons,** sponsored by Rep. Kevin Glynn (South Portland). This proposed constitutional amendment would limit the increase in the taxable value of property owned by persons over the age of 65 or who are disabled. The limitation in year-to-year valuation increases would be the rate of the cost-of-living adjustment to Social Security benefits. Although the constitutional amendment would not require any means-testing in order to receive the benefit, the amendment would authorize the Legislature to impose income eligibility standards that the municipalities would have to administer when implementing the special assessing system.

**Committee Recommendation:**  
Unanimous "Ought Not to Pass"