Legislative BULLETIN

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Palesky Tax Cap Petition Certified; Legislative Tax Plans Factionalized

On Monday this week, Secretary of State Dan Gwadosky finally certified the petition of the Maine Taxpayers Action Network to present to the Legislature, and ultimately Maine's voters, the California-style "Proposition 13" property tax cap proposal as advanced for these many years by Topsham's Carol Palesky.

The initiated legislation has two major elements. First, it would scale back all property assessments to their 1997 equalized valuation and cap any annual adjustment of those assessments to 2% increases. Second, it would set a mill rate cap of 10 mills (1%). To avoid any confusion with the Legislature's "1B" competing measure that political leaders were promoting last fall or any other of the property tax capping measures that are beginning to proliferate in the Legislature, it should be noted that the 10-mill property tax cap is a mill rate cap on all municipal property taxes, not just the taxes raised for education.

Several other elements of the Palesky initiative include:

• The 10-mill cap could be exceeded to cover any debt service requirements that had been approved by voters in the past and any debt service requirements approved in the future as long as they are approved by a 2/3 vote of the local electorate at referendum.

• All county assessments would have to be sent somewhere else for payment because no county or special-district budgets could be assessed against real or personal property.

MMA is in the process of carefully calculating the town-by-town impact of the Palesky proposal. A preliminary impact analysis suggests that FY 06 property tax collections would be slashed by $700 to $800 million if the Palesky initiative is adopted. For context purposes, a massive cut of this size would nearly eliminate any local contribution for public education or, in the alternative, completely eliminate all property tax support for fire, police, solid waste, land use, welfare, and all other municipal and county services.

Because the tax-cap initiative is taken in its entirety from California law, dozens of legal and administrative questions are immediately presented, not the least of which is the constitutionality of the limitation on assessed values given Maine's constitutional requirement for "just value" assessing. Setting aside those questions for the moment, several high-profile procedural questions are before the Legislature.

For example, although a layperson's reading of the Constitution regarding citizen initiatives suggests that the Palesky initiative would be scheduled for the General Election in November, some decision-makers in the State House are suggesting scheduling the property tax cap initiative for June 8th, where it would appear on a

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Lawmakers Urge Cash Rebate Relief

Speaker of the House Pat Colwell's homestead rebate bill – LD 1824, *An Act To Provide Property Tax Relief to Maine Homeowners* – was given its public hearing on Tuesday this week.

More fully described in the January 9th edition of the *Bulletin*, LD 1824 would repeal the $7,000 homestead exemption, create a homestead rebate program that would provide a check-in-the-mail rebate calculated as the taxes on the first $14,000 of a homestead's "just value", amend the standards of eligibility and administration of the Circuit Breaker program, and establish a "local option" tax relief program for residents who have owned their homes for at least 20 years.

In round numbers, according to the testimony of several of the bills proponents, LD 1824 would ensure that the state would mail out over $100,000,000 a year in checks to 410,000 households each September with the words "Property tax relief provided by the Maine State Legislature" written across each check.

In addition to Speaker Colwell, eleven legislators testified in support of LD 1824, as well as Brian Rines (the mayor of the City of Gardiner), Christopher St. John (Maine Center for Economic Policy), Kathleen McGee (The Maine Citizen Leadership Fund), Mark Mutty representing the Roman Catholic Bishop of Portland, and a represen-

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PALESKY (cont'd)

separate ballot alongside the "Question 1A" run-off ballot. This scheduling proposal obviously, would pull the Palesky initiative away from the focus of the full electorate at a presidential election and place it before the far narrower primary turnout…an electorate of approximately one-tenth the size. The stated public policy behind the scheduling proposal is to give voters the two tax related initiatives side-by-side – the Palesky initiative alongside MMA's *School Finance and Tax Reform Act of 2003*. The Palesky supporters, on the other hand, would be undoubtedly enraged at losing the opportunity to have the full electorate vote on the proposal.

It is also fairly clear that the Legislature intends to put a competing measure on the Palesky proposal just as lawmakers put the "1B" competing measure against the *School Finance and Tax Reform Act of 2003*. It is not clear what form that competing measure might take.

Legal, technical, procedural and strategic questions aside, the certification of the Palesky petition has had a noticeable effect on the Legislature and its expressed interest in tax relief. Several "tax relief" plans, one "spending control" plan, and one tax reform plan are being developed in separate corners and separate caucuses within the State House.

One plan, sponsored by Speaker of the House Pat Colwell (Gardiner) would repeal the homestead property tax exemption and replace it with a homestead rebate program which would send over $100,000,000 in the late summer of each year back to 410,000 households as checks in the mail, each check embossed with the words "Property tax relief provided by the Maine State Legislature" (see related article).

A similar plan endorsed by Rep. Richard Woodbury (Yarmouth) would also send the $100,000,000-plus back to homeowners and renters each year for whatever amount their property taxes (or the "property tax" portion of their rent) exceed 4% (if low income) or 5% (if not) of their income.

A third plan, supported by about one-half of the Taxation Committee, is a word-for-word repeat of the Legislature's "1B" proposal from last year with the addition of a 1% local option sales tax.

The "spending control" plan which has just been unveiled – at least in concept – by a block of Republicans in both chambers is a constitutional amendment that would limit state, county, school and local budgets so they could not grow year-to-year more than the rate of inflation plus the rate of population growth. In addition, the Legislature would be required to summons a 2/3 vote in order to increase any tax or fee.

The stalwart Rep. Barney McGowan (Pittsfield) is still promoting a comprehensive tax reform proposal that would fully implement the Essential Programs and Services school funding model, establish an 8 mill cap on every municipality's local share of school funding, repeal the personal property tax and reimburse municipalities for 50% of the lost tax revenue, phase-in a reduction of highest marginal income tax rates, and finance the reform by repealing selected sales tax exemptions.

And Governor Baldacci's plan to repeal the personal property tax appears to be moving forward; the proposal is being discussed as though there is active legislation on the table, but no bill with any details has been presented as of yet. It seems hard to believe that with residential and small business property taxes being such a concern, and with a proposal before the electorate to severely cap the municipal *tax rate*, there would be any consideration of repealing 10% of the municipal *tax base*: a measure that would shift over time – even with 50% state reimbursement – about $80 million of increased property tax burden to Maine's homeowners and small businesses.

LAWMAKERS (cont'd)

tative of the Maine State Grange.

In summary, the testimony of the legislators supporting LD 1824 stressed three points: (1) the importance of mailing rebate checks directly to taxpayers rather than relying on what was referred to by one legislator as the "whim" of municipal officials to pass the full value of the homestead exemption onto local taxpayers; (2) the importance of letting the people of Maine know that the Legislature "hears their cry" for relief and is responsive to it; and (3) the importance of defeating both the MMA-MEA initiated *School Funding and Tax Reform Act of 2003* when it appears on the ballot on June 8th and the Palesky initiative, whenever it is scheduled to go to the voters.

The testimony of the non-legislators – the several "public interest" lobbyists – was in support of the bill provided the broad-based Homestead relief (which goes to all residents) was reduced, and the Circuit Breaker relief (which goes to low-income households) was increased.

The "local option" element of LD 1824, which would allow municipalities to freeze the taxes for homeowners who lived in the same home for 20 years and (again at local option) ultimately recoup the lost revenue through a lien on the property was described as a cleverly designed "land bank" program.

MMA testified alone in opposition to the bill, citing four principal reasons:

Cash rebate programs are not the answer. There are deep structural problems with Maine's tax code that municipal officials believe need to be recognized by the Legislature and squarely addressed. With respect to the disproportionate burden on Maine's property tax, the central issue would be resolved if the state would just agree to a dependable state financial contribution

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Legislative Bulletin

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

Regionalization Committee Meets

Although on February 2nd Punxsutawney Phil confirmed that spring was still six weeks away, the seeds of regionalization sown by legislative leadership last spring bloomed on Thursday of this week as the 15-member Joint Select Committee on Regionalization and Community Cooperation convened for its inaugural meeting. (See Committee membership list below.)

At this first meeting, the Committee chairs, Sen. Dennis Damon (Hancock Cty.) and Rep. Janet McLaughlin (Cape Elizabeth) briefly explained the goals of the Committee, which are to find mechanisms for encouraging government and school officials to work together to streamline services and to provide those services in more cost effective ways, without a state mandate to do so. The chairs want to find ways for improving the delivery of governmental services, while strengthening residents' sense of community.

To meet that goal, the Committee intends to invite different stakeholders to make presentations to the group and meet with government officials, business owners and residents in different areas of the state to receive feedback, suggestions and recommendations on how government services could be provided more effectively and efficiently.

The chairs also outlined the agendas of the next few meetings. According to the Committee's schedule, by next Friday, February 20th, the Committee will have heard presentations from county government officials, members of the education community and a regionalization related economics discussion led by the Muskie School's Charles Colgan.

County government was the theme of the Committee's first meeting. Bob Howe, Executive Director of the Maine County Commissioners Association and the Maine Sheriffs Association, Esther Clenott, Cumberland County commissioner, Todd Brackett, Lincoln County sheriff, and Bob Devlin, Kennebec County manager, spoke about the structure and services provided by county governments. The presentations provided by the four county officials were straightforward and focused on the opportunities county governments have for assisting municipalities in providing services on a regional basis. The Committee was told that county officials are anxious to work with municipal officials, but understand that communication is key to the success of any regionalization effort.

Many of the county presenters also focused on the fact that state funding for any new effort was also necessary. These officials acknowledged that county government is too heavily reliant on property taxes and that other sources of revenue, particularly more state funding for county jails, in necessary.

Although the Committee was appreciative of the information provided and encouraged by the counties interest in the process, some members expressed concerns over the perceived credibility of county government. Some members questioned why Governor Baldacci, in his proposal last session to create regional service districts, did not turn to county governments to provide those services.

Several members of the Committee think that one or two structural reforms to county government are necessary before counties can become players in the regionalization discussion.

Some Committee members believe efforts should be made to professionalize county governments by requiring the appointment of some elected officials (i.e., treasurers, judges, and the registers of probate and deeds), or at a minimum setting in statute the educational requirements necessary to hold the elected positions.

Other Committee members believe that county boundaries need to be changed in order to group similarly-situated communities together. In some counties, such as Cumberland and York, the needs of the communities on the coast differ from the needs of inland communities. By changing county boundaries, legislators believe that counties could provide a greater number of services to a more homogenized group of communities.

The Committee also invited county officials to identify what the Regionalization Committee could do to provide counties with the tools necessary to become trusted service providers.

Subsequent meetings of the Committee have been scheduled for Thursday, February 19th at 1 PM and on Friday, February 20th at 9 AM.

Committee on Regionalization and Community Cooperation

Sen. Dennis Damon, Chair (Hancock Cty.)
Sen. Peggy Rotundo (Androscoggin Cty.)
Sen. Chandler Woodcock (Franklin Cty.)
Sen. Kenneth Blais (Kennebec Cty.)
Rep. Janet McLaughlin, Chair (Cape Elizabeth)
Rep. Edward Suslovic (Portland)
Rep. Christopher Barstow (Gorham)
Rep. Glenn Cummings (Portland)
Rep. Janet Mills (Farmington)
Rep. Theodore Koffman (Bar Harbor)
Rep. Philip Bennett (Caribou)
Rep. Joshua Tardy (Newport)
Rep. Tomas Murphy (Kennebunk)
Rep. Anita Peavey-Haskell (Greenbush)
Rep. Stephen Bowen (Rockport)

Adult Entertainment Establishment Bill Defeated

The Legislature's Business Research and Development Committee (BRED) voted 8-4 to defeat LD 1801, *An Act to Control Adult Entertainment Establishments*. As was reported in last week's *Bulletin*. The bill, was only a "concept draft" and therefore had no specific proposals. The first of the bill's two components was a proposal to establish statewide minimum zoning set backs for Adult Entertainment Establishments (AEEs), such as, 500 feet from a school. Although the bill did not address the issue of enforcement, the presumption is that state established zoning standards would require state (i.e. Attorney General) defense of these standards in court. The Attorney General's Office (AG) did not testify at the hearing or work session for this bill.

This provision met the most opposition from MMA's Legislative Policy Committee (LPC) which strongly felt that local officials are aware of the concerns regarding AEEs and their proximity to civic areas and are best suited to establish what those setbacks should be.

The second provision was a proposal for state licensing of AEEs. The LPC did not have a strong position one way or the other regarding licensing. The potential state licensing agencies did not testify on the bill either (although the Department of Professional and Financial Regulation was following it closely). Several Committee members expressed no interest in licensing (consistent with their lack of interest in licensing home contractors).

There was an interesting discussion as to whether BRED was even the appropriate committee for this licensing issue. Some felt that Legal and Veterans' Affairs, State and Local Government or Public Safety might be better suited to review this proposal. Regardless, the state agencies that would have been given the most responsibility showed no public support or enthusiasm for joining the fight many municipalities are engaged in with AEEs.

That deafening silence, the sizable fiscal note that such a bill would have generated, and the general belief by committee members that local officials can and should manage the issue led to the bill's defeat.

However, many members of the committee did express concern that there are so many towns which do not have any zoning in place today that would regulate AEEs. The committee felt these towns are vulnerable to decisions of AEEs and should be protected. To that end, the majority voted to request that the State Planning Office, MMA and the AG work to craft a model zoning ordinance section regarding AEEs and report back the model ordinance in January, 2005. [Sample ordinances have been posted for several years on the MMA website.

Maine Model Building Approved by Committee

The Legislature's Business, Research and Economic Development Committee (BRED) voted 10-1 to support an amended version LD 1025, *An Act to Ensure Uniform Code Compliance and Efficient Oversight of Construction in the State.* The bill was originally a carryover from the first session that was reworked for the second session.

As was reported a few weeks ago in the *Bulletin*, the reworked version of LD 1025 did three things: First, it established the 2003 International Code Council codes, both commercial and residential, as the Maine Model code; second, it limited future adoption of codes by municipalities to only the Maine Model code (but it requires no adoption at all and has no preemption of existing codes), and third, it only allowed local amendments to the Maine Model code that are more restrictive than the model.

The third provision was identified in the *Bulletin* as being most troublesome. The committee agreed to amend this limitation on local amendments. That restriction seeks to prohibit a town that adopts the Maine Model Code from turning around and striking the entire Maine Model code and substituting a new code. The idea is that code uniformity from town to town, which is the goal of the proponents and the committee, must be protected. However, the bill that passed will allow towns to adopt only parts of the code or may make local modifications that do not "substantially" alter the Maine Model.

A few committee members were dismayed that this bill, which does not preempt existing codes, does not require adoption of a code and permits a wide range of local amendments, is not a piece of legislation that accomplishes that much. However, the general sentiment was that establishing a Maine Model Code was a step in the right direction, even if it was a small step.

The concern for municipal officials in the future, is where does the next step fall. The proponents of preemption and mandates will be emboldened by the passage of this bill. The selection of a model code has long been one of the primary obstacles to statewide adoption of a building code. With that obstacle seemingly (but not securely) navigated by this bill, local control of the building code issue will surely be tested.

Representative Guy Duprey (Medway) was the lone dissenter. His minority report will urge that towns have more choices and that they not be restricted to the Maine Model Code.

The Spin Doctors

There are several statements that are beginning to be said often enough – at the highest levels of Maine politics and academia – to fall into the if-you-say-it-often-enough-people-may-begin-to-believe-it's-true category.

The statements are not actually true, at least not in any true sense of the word "true", but the theory seems to be that if they are said often enough – whipped off casually enough by people the newspapers are likely to quote – then maybe they will come to be regarded as accepted truisms.

A classic example of this emerging truth-by-repetition spin-game is the claim made by certain sectors of the business and industrial lobby that Maine is the only state or one of the few states that taxes personal property. That claim is actually completely false. As a matter of fact, most states (39 of 50) tax personal property.

Another claim bandied about recently is that Maine has more local government employees per capita than the national average. Speaker of the House Pat Colwell made this claim most recently on the occasion of forming a new legislative committee to recommend ways municipalities can regionalize. Specifically, Rep. Colwell is reported as saying that while the number of state workers is about average with other states, Maine ranks eighth nationally in the number of local government employees per capita. It is unclear from the newspaper article where Speaker Colwell is getting his information and it is not uncommon for the Maine press to report these statements without verifying them, but according to the most recent data available, assembled by U.S. Census, Maine has 15 state employees per 1,000 citizens compared to the national average of 13. Maine's rate of local government employees, according to the same data source, almost exactly matches the national average, with 40.4 per 1,000 residents by national average and 40.6 per 1,000 in Maine). This places Maine 18th in national rankings, not eighth.

And the latest in this series of information 'spins' is the often-stated 'fact' that "nearly 50% of Maine's state budget is sent back to the communities". The latest version of this spin-fact was pushed by the Professor of Public Policy at the University of Maine's Muskie School, Charles Colgan, in a speech he gave on tax reform at the Augusta Civic Center on January 23rd. In the speech, Colgan stated "In FY 2003, 45 cents of every dollar of general fund revenue went back to towns, making aid to local governments by far the largest single category of state expenditures. Put another way, in FY 2003, the state transferred to local governments more than the entire revenue of the sales tax, corporate income tax, public utilities tax, and lottery revenues."

All of this boils down to what your definition is of "sending general fund revenue back to the towns". In making this untested claim, Colgan is apparently relying on information packaged by the Legislature's Office of Fiscal Program Review and published annually as the "Summary of Major State Funding Disbursed to Municipalities and Counties".

Using that publication, here are the facts:

The total state revenue distributed annually to the "municipalities and counties" (for some reason the schools are not mentioned even though their function receives a majority of the funding) is $1.1 billion.

The lion's share of that total – fully 82% of state revenue "sent back to towns" – is the state's contribution to K-12 education. Apparently Colgan, the Maine Center for Economic Policy that redistributed Colgan's speech, and the several legislators and Administration officials who often make this point all believe it is fair to characterize the state's financial support for K-12 education as a gift or bequeathment to the communities, rather than a service the state is providing according to a serious moral obligation that falls on state government to directly participate in financing the education of Maine's children.

Other chunks of state revenue that are identified in the report, and therefore in this rhetorical spin, as "sending money back to the communities" include:

• $5 million a year which is an extremely modest contribution to the $40 million annual cost of operating county jails;

• Several longstanding state-local partnership systems such as General Assistance, snowmobile registration fee sharing, etc.; and

• $6.4 million a year for District Attorney salaries, which represents a "sending back revenue to the towns" in only the most abjectly distorted sense of that term.

Several of these financial categories, and a high percentage of the money involved, should not be reduced to the concept of "sending state money back to the towns". The state support for K-12 public education, just like state support for higher education, is a fundamental state service for which a financial commitment is required.

LAWMAKERS (cont'd)

to K-12 public education as originally established in public policy 20 years ago. Without a coherent school funding system, significant and sustainable property tax relief is impossible. Maine's tax system should be designed to require the smallest possible reliance on cash rebate solutions, not the largest.

The cost of LD 1824 precludes responsible funding of K-12 education. We have not seen the fiscal note attached to LD 1824, but we have to assume that the bill would cost the General Fund over $50 million in FY 05. If $50 million is truly available in the supplemental FY 05 budget, the highest priority of municipal officials is to dedicate those resources to the completely unfulfilled 1984 state policy to fund public education from the state's General Fund at the 55%

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Aquaculture Report Released

Governor Baldacci's task force that has been studying aquaculture issues for the better part of the past year presented its findings to the Legislature's Marine Resources Committee this week. The Report, 187-pages including all 11 appendices, is available online at the Department of Marine Resources website. Anyone wishing a hard copy should feel free to contact MMA's Laura Veilleux at 1-800-452-8786 or lveilleux@memun.org.

The Report was prepared by an 11-member task force that did not include any municipal representation. Due to the large number of interested parties, an Advisory Panel was also created. The Panel participated in the work of the task force and commented on the task force findings but did not have a vote as to the recommendations. Municipalities were given one seat on the Panel which was filled by a harbormaster with knowledge of the aquaculture industry.

The legislative recommendations include both statutory changes and rule changes. The statutory changes will be presented to the Marine Resources Committee on Wednesday, February 18, 2004. The hearing will be held at the Augusta Civic Center, just as the aquaculture bills introduced last session were. It is anticipated that the hearing will last all day.

There were three possible outcomes from the municipal perspective, a strengthening of the municipal role in aquaculture leasing, a weakening of that municipal role, or maintenance of the status quo. The Report provides a little of each and a bottom line conclusion is difficult. However, there are clearly elements of the Report that will meet with municipal opposition that should be carefully considered by the Committee.

The Good

The Report makes some recommendations that will likely be welcome to municipalities. One of the primary municipal concerns regarding aquaculture is the leasing process employed by the Department of Marine Resources (DMR). Generally, municipalities do not have authority over the state decision to lease areas for aquaculture facilities. The notable but limited exception is for towns that have enacted shellfish ordinances. Pursuant to Title 12 MRSA §6072(3), towns with shellfish harvesting ordinances may veto DMR's aquaculture leasing decisions made in the intertidal zone.

The Report recommends against any further extension of veto authority to the towns as some towns and townspeople wanted. However, it does allow towns to submit written comments to the DMR to which DMR must respond. A frequent complaint of the existing leasing process is that several participants feel that their comments and concerns are ignored by DMR. The change will obligate DMR to respond, though not to acquiesce, to concerns raised by municipalities.

Also, the Report proposes to give municipalities an opportunity to present their concerns earlier in the process at a so-called Scoping Session. Currently, DMR only receives comments after an applicant has submitted its completed application. The Report rightly concludes that it would be better for the applicant to hear municipal concerns, and if possible, address those concerns before the application is submitted. This will help to streamline the process and focus DMR's review on the more contentious issues.

Another positive recommendation is clarification that municipal authority to lease in the intertidal zone is not contingent upon state approval. Currently, towns with shellfish ordinances may lease up to 25% of their intertidal zones to private operations. However, the law is unclear as to whether DMR approval of these town leases is required. The Report recommends clarifying that ambiguity in the towns favor and not requiring state approval.

The Bad

The Report makes 42 recommendations in the area identified as the Leasing Process (Part VII of the Report). There is only one, recommendation 13, that can be fairly characterized as bad from the municipal perspective. This recommendation has two provisions: It prohibits municipal mooring fees on any mooring, boat or facility, within the area leased by the state; it also prohibits municipal input on siting decisions for the moorings within the lease area.

The Report makes a few observations regarding mooring fees as justification for prohibiting their imposition. One observation is the fear that towns will charge very high mooring fees as a method to totally prevent aquaculture. No examples of this actually occurring are cited in the report. However, there is an easy fix to this theoretical possibility of very high fees – the state could cap the fee at a rate not to exceed all other mooring fees in the harbor.

Another observation was that it would be unfair to force the industry to pay twice, once to the state and second to the towns, for use of essentially the same property. That position is unfounded. The fee to the state is a rental fee in exchange for the exclusive right to profit from the use of public property. The mooring fee is a fee paid to help defray the cost of the harbormaster which manages the harbor. It should not be controversial to assert that aquaculture sites increase the workload of harbormasters. To provide a small measure of compensation should not be out of the question. Furthermore, it would be bad public policy to begin down the slippery path of exemptions. Once the first step is taken, no matter how rational, the "why not me" parade will quickly assemble.

This recommendation appears to have been one of the more controversial that produced a bit of dissent. In fact, the memo prepared by DMR on this issue and presented to the task force had statutory language that specifically protected municipal mooring fees (with protections against discriminatory pricing). Furthermore, the Advisory Panel voted 7-1 to request the task force to protect municipal moor-

ing fees (Appendix I, p. 146).

The second recommendation is to prohibit local regulation of the leaseholder's moorings, either facility or boat moorings, within the harbor. This prohibition covers both the siting location of the mooring and the structural composition of the mooring. Again, as long as there are safeguards in place to protect against regulations that have the effect of preventing aquaculture, this provision seems to overreach. The principal function of a harbor master is the stewardship of moorings and navigation in a harbor. A poorly constructed or planned aquaculture site could potentially have serious consequences. Again, the DMR memo sought to protect the local mooring permitting process. The committee should carefully consider this recommendation which undercuts the historical role of harbor masters.

The Report's one-page review of both of these issues does not set forth a strong enough rational for curtailing local input on such important harbor management decisions.

The Status Quo

The Report provides no hope for those whose chief concern is enforcement. State leases often contain restrictions on operations. These restrictions govern quality of life protections for other harbor users and riparian interests. Typical restrictions limit hours of operation or noise levels. DMR is responsible for enforcing the restrictions and conditions it places in a lease. However, the Report's finding on this point is all too familiar: "DMR's current enforcement budget is not sufficient to provide an appropriate level of enforcement."

DMR acknowledges that its standard operating procedure is to be reactive – that is, wait until someone complains and then respond. By which time, municipalities have often heard the complaint, and asked "to do something." DMR says it is instituting a new policy of requiring annual inspections of each leased site. While that is a positive step, it is hard to believe that such a program could accomplish much. A workable solution is probably not in the offing.

A possible solution is greater enforcement of these lease provisions by local harbormasters who are on site and who have historically managed harbor usage issues. However, until the state wants to partner with municipalities as equals, harbormasters will be handicapped from performing this function. Furthermore, since the Report strips municipalities of the meager revenue that was generated by the mooring fees from aquaculture sites, the local ability to fund such functions has been weakened. Until a solution is proposed, the state will continue to have the same record as all other absentee landlords.

One of the most contentious issues debated during the public hearings last session was whether DMR should include in its lease review process aesthetic considerations. Coastal landowners and tourist industry representatives wanted DMR to include an aesthetic review of proposed aquaculture operations because of the consequences on tourism and quality of life when large or imposing aquaculture facilities open in a harbor.

Industry representatives said that any meaningful considerations along these lines would kill the concept of a working waterfront. Besides, they added, aesthetic considerations are very subjective and are thereby inappropriate in a regulatory setting.

The Report basically agrees. While the size, light and noise regulations will indirectly address some of the aesthetic concerns, the Report specifically excludes these considerations from DMR's decision making process.

The report also discussed the concerns that have routinely been raised about light and noise impacts from aquaculture facilities. While there is no meaningful statutory changes proposed, DMR is implementing detailed agency rules governing this issue. The rules will not necessarily be based on a quantification of light and noise. That is most disappointing with regard to noise, which is frequently regulated because it is quantifiable in decibels. This proposal was rejected because of the belief by task force members that it would be both difficult to measure decibels on the water and difficult to enforce. The existing statutory standard of preventing light and noise from having "unreasonable" impacts is unchanged. It remains to be seen whether the rules and the commitment to enforce them are sufficient to solve the problem.

LAWMAKERS (cont'd)

level. Again, proper education funding is the key to sustained property tax relief.

Repeal of the homestead exemption will increase local taxes. The enactment of LD 1824, through the repeal of the homestead exemption, will increase Maine residents' property tax bills by roughly 3%. The combination of forcing increases to the actual property tax bills and then sending checks to 410,000 households adorned with the phrase "Property tax relief provided by the Maine State Legislature" strikes municipal officials as patently unfair. Elected municipal officials work hard and constantly to control property taxes, but the ever-increasing municipal obligation to pay for education, meet state and federal unfunded mandates, and cope with energy and health care costs that outstrip inflation, makes it very difficult. If the Legislature really wants to take credit for property tax relief, it should properly fund the public schools.

The "local option" property tax relief authority violates Maine's Constitution. Maine's Constitution requires the equal assessment *and* equal apportionment of all property taxes. LD 1824 would authorize municipalities to freeze or limit the apportionment of property taxes for a select group of taxpayers who have owned and resided in their homes for 20 years or more. It would appear, therefore, that LD 1824's "local option" is unconstitutional. When (and if) the state ever commits to a fixed and dependable share of the total cost of K-12 education, a review of "just value" assessing doctrine may be warranted. Until the state's contribution to school funding and the funding distribution system is rationalized and stabilized, it would be a mistake to change the principle of equal apportionment for any narrow class of property owners.

LEGISLATIVE HEARINGS

Tuesday, February 17

Natural Resources
Room 437, State House, 10:00 a.m.
Tel: 287-4149
LD 1617 – (Carryover) An Act to Improve Subdivision Standards.

Wednesday, February 18

Appropriations & Financial Affairs
Room 228, State House, 1:00 p.m.
Tel: 287-1635
LD 1647 – An Act To Authorize a General Fund Bond Issue in the Amount of $3,000,000 To Build a Warehouse To Stimulate and Support Maine's Manufacturing, Transportation and Harbor Industries.

LD 1707 – An Act To Authorize a General Fund Bond Issue in the Amount of $1,000,000 To Fund Downtown Revitalization To Preserve the Heritage of Municipalities.

LD 1776 – An Act To Authorize a General Fund Bond Issue in the Amount of $150,000,000 To Finance the Acquisition of Land and Interest in Land for Conservation, Water Access, Outdoor Recreation, Wildlife and Fish Habitat and Farmland Preservation and To Access $50,000,000 in Matching Contributions from Public and Private Sources.

LD 1812 – An Act To Authorize a General Fund Bond Issue in the Amount of $1,000,000 for the Renovation of Millinocket Municipal Airport.

Criminal Justice and Public Safety
Room 211, Cross State Office Building, 1:00 p.m.
Tel: 287-1122
LD 1729 – An Act To Strengthen the Sex Offender Registration and Notification Act of 1999.