

Bumping to a Close

In the story books, a legislative session comes to a close like a precision aircraft makes a landing, touching down on the runway with the timely enactment of a two-year state budget, decelerating on the landing strip with the approval of a biennial bond package, hosting one final late-night session in the Appropriations Committee room “working” the bills on the Special Appropriations Table with fiscal notes that cannot all be paid for, and finally “running the Table” in the soft daylight of the last legislative day, parking at the hanger with handshakes all around.

But that’s the story books. In real life, the legislative session is going to bump to a close. Because this will likely be the last edition of the Legislative Bulletin until the 2014 legislative session gets underway, what follows is our understanding of how the remaining days will play out.

The two-year state budget was enacted on June 13 but now sits on the Governor’s desk awaiting a promised veto. The state’s Constitution provides 10 days (excluding Sundays) to make that decision.

The Legislature concluded most of its work in the early morning of June 20, and is now in recess until June 26 when it will take up the Governor’s expected veto of the state budget and attempt to override it.

It is apparently the case that there is no room in the adopted budget to accommodate additional debt service, so no recommended bond package will be forthcoming this legislative session.

The process of working and then running the Special Appropriations Table cannot be completed until the budget is enacted. If the Governor’s veto is overridden, the task of taking final action on all tabled bills will be conducted when the Legislature reconvenes on the 26th, at which point it will recess again.

The process of finally enacting at least

some of the bills on the Special Appropriations Table triggers another period of time for the Governor to review the finally enacted bills for veto consideration.

Therefore, July 9 has been tentatively scheduled as the final “veto day”. That should be day the Legislature adjourns “sine die”, or “without return”.

A complete report on this legislative session will be provided in the July issue of the Maine Townsman. That report

will include descriptions of all the newly enacted laws affecting local government, the bills being “carried over” to the 2014 legislative session, the various working groups and study commissions that have been established to work on issues of municipal interest over the summer, and more.

Thank you very much for subscribing to MMA’s Legislative Bulletin during this first session of the 126th Maine State Legislature.

Municipal Revenue Sharing: A Couple of Side-Bar Issues

The big story on municipal revenue sharing, of course, is the decision in the enacted state budget to cut the distribution by 33% over the next two years... a 33% cut to a distribution that has already been cut by 33%. Governor LePage proposed to cut revenue sharing completely. The Legislature chose a more moderate reduction, “transferring” \$160 million out of the property tax relief program over the biennium to pay for state spending priorities. Municipal officials are told to “tighten their belts.”

Against that backdrop, two side-bar stories on revenue sharing popped up this week.

Ready, Fire, Aim! First, the sharp eyes of the Mayors’ Coalition lobbyist picked up a little-known provision buried in Part S of the enacted budget bill that provides even more definition to the Legislature’s view of, and appreciation for, the public policy foundation of the municipal revenue sharing program.

Part S of the budget creates a 13 member working group charged with examining all “tax expenditures”, which is the formal term for tax exemptions,

including exemptions from state-level taxes and exemptions from local property taxes, and recommending the repeal or adjustments to those exemptions that would provide \$40 million in revenue to the state budget.

This section further provides that if legislation created according to the recommendations of the study group is not enacted by July 1, 2014 that generates an increase in General Fund revenues of at least \$40 million, then \$40 million dollars will be automatically subtracted from the FY 15 revenue sharing distribution, essentially bringing revenue sharing down to nothing.

To the Legislature, municipal revenue sharing has obviously become little more than a contingency fund to be used as collateral to back-up speculative forays into difficult areas of public policy. If we’re not able to crack the code on tax exemptions, no worries! We’ll just take revenue sharing instead. Makes perfect sense.

Revenue Sharing restoration bills carried over. The Appropriations Committee on Monday this week voted to

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DOT Reaction of MMA's Analysis of LRAP Proposal

In response to the “*It’s Not You, It’s Me*” article published in the June 14 edition of the Legislative Bulletin, which detailed the changes to the Local Road Assistance Program (LRAP) that were adopted by the Transportation Committee in the context of the 2-year Highway Fund budget (LD 1480), a representative from the Department of Transportation (DOT) emailed MMA staff a “couple of corrections and comments” memo.

As a reminder, the LRAP changes adopted by the Committee include: (1) starting in FY 15, as a permanent change, reducing the municipal share of DOT revenues used to provide local road assistance funding from 10% to 9%; (2) eliminating the hold harmless provision, which ensures that communities receive no less in state aid than was provided in FY 1999; and (3) changing the current quarterly payment schedule to an annual December payment.

What immediately follows is the corrections-and-comments memo from DOT. MMA’s response to the DOT communication is then provided.

DOT Response to Article

“First.... LRAP is NOT “financial support for the “maintenance of state aid roads”. While that is an option for the 47 compact towns, those funds are for capital improvements to local roads in every town. That money is “local road assistance”.

“Second,...as you remember, the hold harmless concept was used to morph from LRAP to URIP 13 years ago so that no towns could get less than FY 99. That has meant that hundreds of towns every year get more than every other town per lane-mile and it is far from fair and consistent amongst towns. Because of the unfairness, in 2006, a working group developed for Transpo Comm’s Dennis Damon and Boyd Marley met at MMA on 8/16/05 to study equity of URIP funding, rates and limitations. Town concerns relative to HH were discussed and you summarized it by saying that “some members believe the HH provision should be phased out...but the group believes that now is

not the right time for that change”. In the 2010 Simplification Study, “Major recommendation #3” from all Committee members said that HH should be “gradually phased out over a 4 year period.” In all my work with town officials in towns of all sizes and as a municipal official myself, the resounding comment is that every town should be treated the same whether it is a good or bad change. Getting rid of HH will finally treat every town in the same way per lane-mile and, yes, all HH towns will see a decrease by December of this year. Lastly, the current 303 HH towns are getting paid just over \$10M now. They should be getting \$8.9M this year which is \$1.1M less. That money will be paid to all the non-HH towns this December so their payment will actually go up.

Third... until I run the software with FY14’s actual LRAP amount, which combines it with all the latest road inventory data, we cannot run any spreadsheet showing town by town impacts. That happens once a year. If we were to look at the last FY, sure, I can show you every town its HH amount and its statutory amount. No one has ever asked me for that.

Fourth... yes, unfortunately, “MMA staff does not have access to all the variables needed to calculate impacts”. Maybe I missed your call, but no one has ever asked me for access to this information. If you had asked me, that info is buried here in a software program that I run once a year which combines our big mileage inventory system with the LRAP payment system. Until that is run, even I don’t know what the impacts will be per town.

And lastly, it is not safe to assume that “LRAP issued for FY 15 will be 90% less than LRAP FY 14.” The LRAP FY 15 “pie” is proposed to be 9% of the Highway Budget which will be higher or lower than the upcoming FY 14 Budget. Yes the % is less but depending on the Budget, and town road inventory changes, and the increases that non-HH towns will see this year, it may be a wash for many towns while the majority will likely see reduction of some %.

Just trying to clarify this for you.....

MMA’s Response to DOT Concerns

Concern #1. LRAP is NOT financial support for the maintenance of state aid roads. The Department is correct, at least on paper. As a matter of law, municipalities statewide receive zero compensation from the state for the winter maintenance activities municipalities are mandated to provide on approximately 7,500 lane miles of rural state minor and major collector roads. Instead, they receive approximately \$24 million to be used for capital improvements to local roads. Coincidentally, municipalities spend approximately \$26 million providing winter maintenance to the state roads pursuant to the mandate, but the provision of local road assistance funds has nothing to do with the coincidence whatsoever.

Concern #2. Every town should be treated the same whether it is a good or bad change. As published in last Friday’s Bulletin, MMA reported on all of the changes being proposed to the Local Road Assistance Program (LRAP), including the proposal to eliminate the hold harmless provision. At a staff level, we have a responsibility to keep our municipal members apprised of changes being proposed by the Legislature. By accurately reporting that the proposal “eliminates the “hold harmless” clause that was enacted when the program was overhauled in 2000, which guaranteed that municipalities would receive no less in state road aid than provided in 1999”, we accomplished that goal. The sharp DOT reaction seems to be something of a projection.

Concern #3. No one has ever asked me for the data. Although the members of the Transportation Committee did not directly ask the author of this memo for the data, on two separate occasions members of the Committee did ask Deputy Commissioner Bruce Van Note for the data. The response from the Deputy Commissioner was a reluctance to provide the data over concerns of moving away from a policy-based debate to one that was focused on spreadsheet politics.

Furthermore, while we understand that the actual FY 15 data cannot be generated, we believe it is the responsibility of the Department to provide state-level decision makers with the data necessary

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Sampling of Municipal Bills on Special Appropriations Table

Legislation that requires state government expenditures is typically placed on the Special Appropriations Table once provisionally approved in both the House and Senate. About 25% of the 127 bills that have been placed on the Special Appropriations Table have an impact on local government in some way. Here's a sampling of the most significant municipally-related bills on the Table that will be finally disposed of by the Legislature, one way or another, when it returns next week to deal with the Governor's veto of the two-year state budget.

LD 156 - *Resolution, Proposing an Amendment to the Constitution of Maine Concerning Early Voting and Voting by Absentee Ballot* – As amended by Committee, this bill sends out to the voters a proposed amendment to the state's Constitution that would allow the Legislature to establish an early voting system in election law so voters could cast their ballots as they do on election day for a specified period of time before election day. The amendment would also create a right to absentee balloting for any reasons deemed sufficient rather than, as the current constitutional language provides, for reasons deemed sufficient with respect to voters either absent or physically incapacitated.

LD 235 - *An Act To Improve Insurance Coverage for Volunteer First Responders* – This bill provides that firefighters or volunteer emergency medical services providers (professional, "call" or volunteer) are presumptively eligible for workers' compensation benefits for any injury sustained after they receive notice or "tone" of a fire or emergency and are

in the process of responding, even if the injury is sustained in their homes or on their private property.

LD 274 - *An Act To Preserve and Protect Ancient Burial Grounds and Burial Grounds in Which Veterans are Buried* – As amended by Committee and passed to be enacted, this bill amends the law requiring municipalities to maintain "in good condition and repair" the graves, headstones, monuments and markers of veterans who served during any war time period to require that maintenance for the graves of all veterans, whether or not the veteran served in a war. The bill also establishes certain minimum "good repair" standards, including grass height limits, keeping the inscriptions legible, etc.

LD 1057 - *An Act Related to Public Funding of Charter Schools* – This bill proposes to substantially reorganize the way public charter schools and virtual public charter schools are funded. Instead of the current funding system which provides the public charter schools with each student's state and local per-pupil allocation, this bill would require the Department of Education to establish a separate account to provide that funding.

LD 1133 - *An Act Concerning the Removal of Municipal Employees* – As amended by Committee and passed to be enacted, this bill provides that all officials and employees appointed or hired by the municipal officers are "for cause" employees and can be removed from office or employment only for sufficient reasons after being provided notice and the right to a hearing.

LD 1150 - *An Act To Require Prevailing Wages To Be Paid on Public Works Projects Receiving State Funding* – As amended by Committee and passed to be enacted, this bill expands the law that requires state construction projects over \$50,000 in value to provide that the construction workers be paid at least the "prevailing wages" as tabulated by the Department of Labor. The expansion under this bill is to apply the "prevailing wage" requirement to all municipal and school construction projects valued at over \$50,000 that are financed in any amount with state funds.

DOT Reaction (cont'd)

to make sound and rational policy changes. The information request could have been met by providing the town-by-town data that would reflect the impacts of the proposed policy change if it had been enacted in FY 13. While the data would not have been 100% accurate with respect to the FY 15 impacts, it would have provided the Committee with a sense of how the change would impact communities statewide.

Information should not be considered the enemy to policy debates.

Concern #4. It is not safe to assume that LRAP issued for FY 15 will be 90% less than FY 14 road assistance payments. MMA's suggestion that a community's LRAP payment would be 90% or less than payments received in FY 14 is based on Deputy Commissioner Van Note's comments to the Transportation Committee. When pressed for the impact data, the Mr. Van Note pointed to a spreadsheet that happened to list for each community the FY 13 LRAP payments and suggested that the loss in state aid would be roughly 10% of FY 13 distribution.

Municipal Rev (cont'd)

"carry over" to the 2014 legislative session two bills submitted this session by legislative leaders designed to restore the integrity of the municipal revenue sharing system. Those two bills are:

LD 713, *An Act To Return Local Revenue Sharing to Full Funding*, sponsored by Assistant Minority Leader Senator Roger Katz (Kennebec Cty.). LD 713 creates a three year ramp to return to full municipal revenue sharing, at which time 5% of state sales and income taxes would be distributed for property tax relief purposes. For the upcoming fiscal year (FY 14) the distribution would be 3.5% of sales and income tax revenue. For the subsequent fiscal year, the distribution would be 4% of those state revenues, and the full 5% distribution would begin on July 1, 2015.

The just-enacted budget discombobulates this legislation and creates a different "ramp" to full funding. Approximately 2.3% of state sales and income taxes will be provided to municipalities in FY 14 as revenue sharing under the enacted budget,

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Correction to Revenue Sharing as a % of Municipal Budget Article

Last week’s edition of the Legislative Bulletin included an article in response to Governor LePage’s claim that municipal revenue sharing distributions account for only 2% - 4% of the budget of Maine’s largest municipalities. The article included a chart showing revenue sharing as a percentage of the total municipal (non-school, non-county) budget for 23 larger Maine municipalities, almost all of which showed revenue sharing to play a more significant role in the municipal budgets than suggested by the Governor. That chart contained an MMA staff-generated data entry error with respect to the municipal appropriations information for Falmouth and Sanford. In both cases, the portion of the municipal budget supported by revenue sharing dollars, when fully funded at the statutory level, was underrepresented. Rather than 5% as presented last week, revenue sharing accounts for 9% of Falmouth’s municipal budget. In Sanford, the revenue sharing

funded portion of the municipal budget is 12% and not 6%. The corrected data is provided below. MMA apologizes for the error.

2012					
		Pop	Municipal Appropriations	Rev Share \$138 M	Rev Share % Muni
Falmouth	CUMB	11,021	11,032,655	982,954	9%
Sanford	YORK	21,559	22,090,032	2,596,943	12%

Municipal Rev (cont'd)

and just 2% in FY 15. Then, at least in theory, full revenue sharing would be restored beginning on July 1, 2015.

LD 940, *An Act To Reestablish State-municipal Revenue-sharing as a Compact between the State and Municipal Governments*, sponsored by Senate President Justin Alford (Cumberland

Cty.). As the title suggests, LD 940 restructures the “Local Government Fund,” which is the repository of the sales and income tax resources dedicated for revenue sharing distribution, as an “irrevocable trust fund,” thus reestablishing revenue sharing as a serious legislative commitment.