

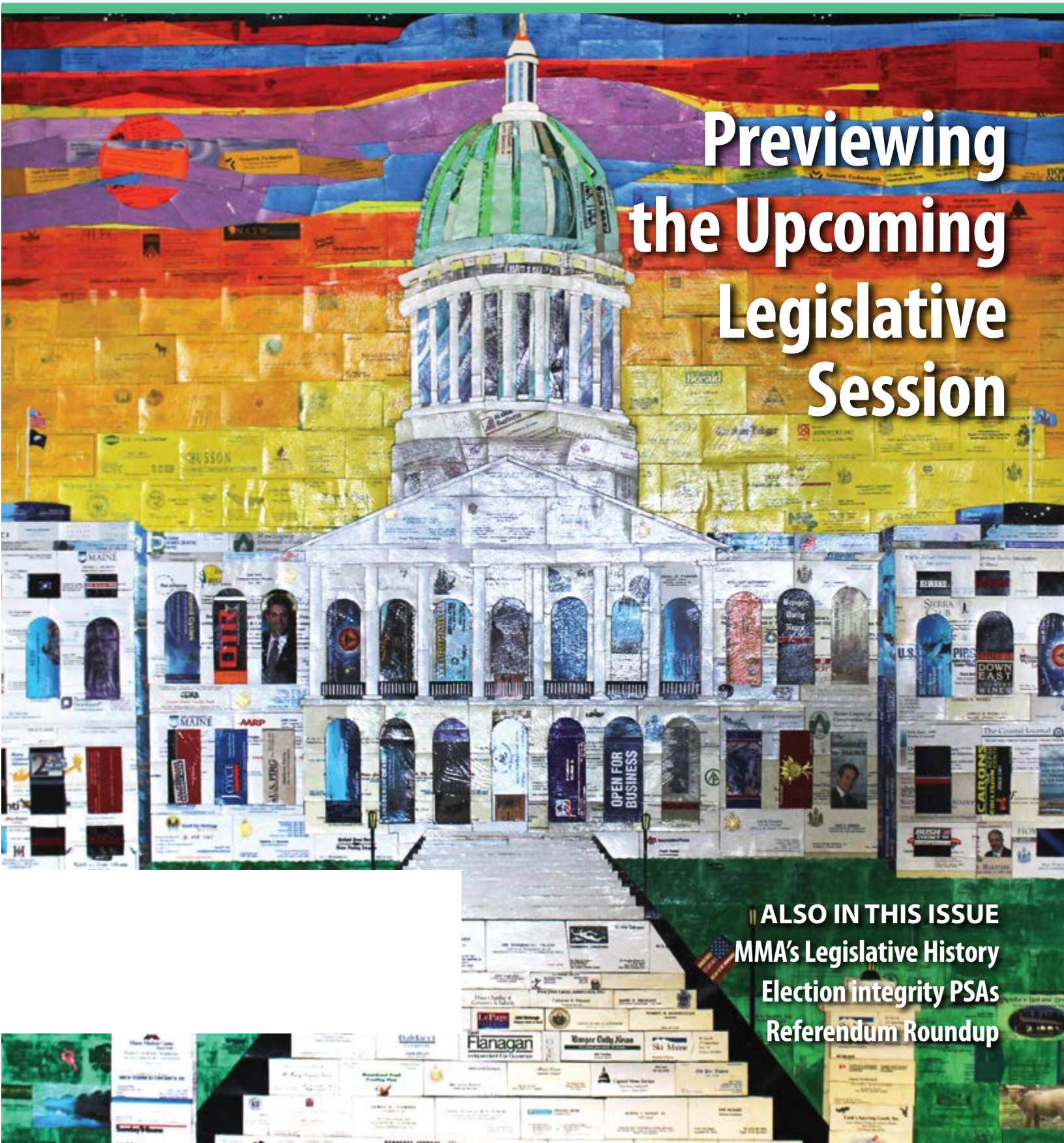
Maine Townsgman

The Magazine
of the Maine Municipal Association

DECEMBER 2016

Previewing the Upcoming Legislative Session

ALSO IN THIS ISSUE
MMA's Legislative History
Election integrity PSAs
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MAGAZINE STAFF

Eric Conrad, Editor

econrad@memun.org

Valarie Pomerleau,

Circulation Manager

Jaime G. Clark

Graphic Designer/Advertising

MMA website: www.memun.org

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Maine Townsman

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The Magazine of the Maine Municipal Association

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Heart of the Matter



The Legislature returns next month. At the center of its work will be responding to four recently enacted citizen referendums, including measures on legal marijuana use and school funding.

Maine elections can be trusted, and Maine Municipal Association is proud to distribute that message. Executive Director Stephen Gove outlines our recent PSA campaign and why MMA stepped up. [Page 5](#)

Complete Session Preview

MMA's Legislative Policy Committee gave our staff clear direction on the upcoming session. Our priority issues, which include 10 pieces of legislation, are detailed here. [Page 13](#)

School Funding a Top Concern

Municipal officials do not directly control school budgets, but they often hear about K-12 spending when tax bills go out. MMA members cite school funding and performance as major issues. [Page 11](#)

Municipal Referendum Roundup

The 2016 election was marked by exceptionally high turnout. Many municipal ballot questions were put before voters, and the results may surprise you. [Page 19](#)

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ABOUT THE COVER: Glenn Adams, a former Associated Press reporter at the State House and current writer for the Maine Townsman, created this unique piece of art, which he calls "House of Cards." It is used with permission.

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A MESSAGE FROM MMA

BY STEPHEN W. GOVE / EXECUTIVE DIRECTOR

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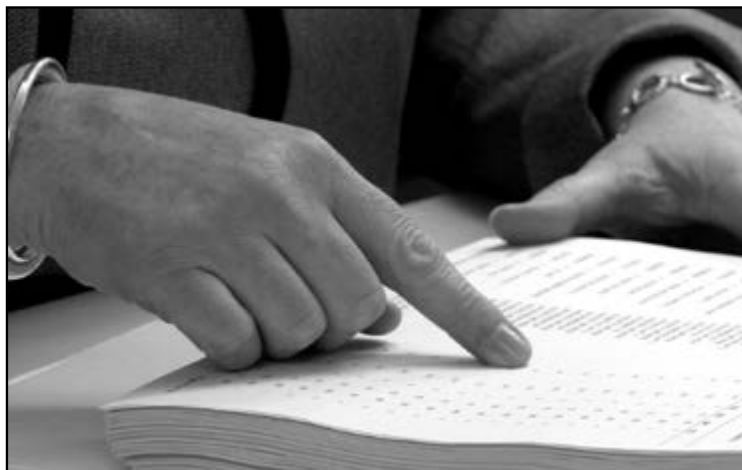
We all heard the claims. Throughout the 2016 election season, some national and state candidates and current office holders made unfortunate remarks that elections can be “rigged,” and would be if certain elections turned out certain ways. More recently, further accusations of “voter fraud” and statements questioned the integrity and accuracy of Maine’s elections.

The Maine Municipal Association couldn’t sit by and let these comments denigrate the hard work and professionalism of hundreds of municipal officials, election workers and volunteers throughout Maine who dedicate their careers and donate their time to conducting open, fair and impartial elections. We couldn’t accept accusations that cast aspersions on the role local government plays in ensuring that every vote counts. So we acted.

We produced a Public Service Announcement (PSA) and social media video campaign thanking municipal clerks, poll workers and others for what they do and assuring Maine citizens that they can absolutely trust our election process and results. MMA’s Executive Committee committed the resources to work with Nancy Marshall Communications to produce a 30-second PSA and a 60-second video for social media. We enlisted the support of Secretary of State Matthew Dunlap, whose office embraced the project by helping us distribute the PSA to media outlets for airing. Augusta City Manager Bill Bridgeo was kind enough to make some of the city’s voting booths and machines available after Election Day for our video shoot.

The “stars” of our PSA and video are three Maine clerks: Lisa Goodwin of Bangor, the current President of the Maine Town and City Clerks’ Association; Kathy Montejo of Lewiston; and, Becky Hapgood of China. The clerks explain how municipal employees and volunteers safeguard elections and ensure the integrity of voting. This wasn’t acting. These clerks know firsthand how municipal officials, election workers and volunteers devote countless hours before, during and after Election Day to make every vote counts. They were good sports on the day of the video shoot and portray their commitment and professionalism in a genuine manner.

Once the PSA and longer video were ready for public release soon after the election, MMA posted them to our website and Facebook page. We also did a statewide me-



dia release which generated coverage. And, with the help of Kristen Muszynski in the Secretary of State’s office, we received commitments from television stations to air the PSA. To date, hundreds of people have seen and shared the videos through social media, the League of Women Voters posted them to its website and municipal officials and others throughout the state have tweeted about the project. The positive reaction to our message has been gratifying.

I hope you’ve had a chance to view the PSA and social media video and share them with your citizens. If not, please visit MMA’s Facebook page (<https://www.facebook.com/MaineMunicipal/>) or our website at www.memun.org. ■

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Practice of governing: How will legislators react to citizen votes?

Maine voters in November put major issues on the table for the upcoming legislative session. How far will lawmakers go in altering or upending the recent votes?

By State and Federal Relations Staff, MMA

Election season is a month behind us. Despite the noise and disquieting political rhetoric, not much has changed in the State of Maine, legislatively speaking. By the numbers, the newly elected Legislature has 46 new faces but will be organized in its two chambers along roughly the same partisan lines as the departing Legislature.

The state Senate, which until swearing-in was comprised of five more Republicans than Democrats, will move into 2017 with a Republican majority of just one.

In the House, the partisan tally at the close of session last spring was 78 Democrats, 69 Republicans and four independent or unenrolled lawmakers. Democrats will still control the chamber in 2017, but the tally has been adjusted to 77 Democrats, 72 Republicans and two independent lawmakers.

Put simply, the partisan split in both chambers has moved several steps toward the center line without crossing it.

The governor, obviously, remains the governor for the two years left in his second and final term, which means the election of his replacement will be concluded by the end of 2018. The internal State House jockeying and political posturing that precedes an open gubernatorial election rarely establishes an environment that nurtures highly productive legislative sessions.

Putting it all together, the various seismographic instruments we are able to assemble that measure shifts in Maine's short-term political landscape are in agreement. The election just concluded did not initiate any

cracks in the fault lines, and the next two years will very likely resemble the last two years in terms of our divided state government and how it functions.

For many, divided government is a welcome state of affairs. A divided State House supports a system of solid checks and balances. Enactments by a divided government stand a good chance of being well tempered by a diversity of perspective.

Maine's state government, however, isn't divided simply in two, as a controlled-access highway is divided. The division is more complicated and layered, as a developer might subdivide an oddly shaped parcel sprawling over unstable terrain. There are fault lines just under the surface cutting crossways through political parties, and the Executive branch has been so dismissive of the Legislature lately, it seems perched on an entirely separate tectonic plate. Instead of supporting a healthy system of checks and balances, this type of subdivided government supports a system made up mostly of checks, which are followed by more checks.

From a public policy perspective, the several years behind us have been as noteworthy for what has not happened legislatively as they have for major public policy accomplishments. Discord, lack of communication, extensive non-concurrence between the chambers, vetoes and veto overrides by the bushel basket and expressions of personal enmity that were formerly unthinkable have characterized the environment under the dome.

An initiated citizenry. If the voters did not significantly change the place settings for the Legislature's banquet

table, they certainly exerted a profound effect on the meal itself.

Roughly half the states in the union, Maine included, allow for their citizens to initiate proposed laws and enact them directly, bypassing their legislatures. Resting on that authority, four major initiatives were approved by the state's electorate one month ago, and sweeping public policy changes in the areas of taxation, public education funding, base level wages, the election process and recreational drug use are on schedule to be codified into Maine law.

The big story of 2017 will be how the Legislature reacts. The business community will seek amendments to the minimum wage initiative. The Governor appears interested in: slowing down or even blocking the recreational marijuana initiative for being in conflict with federal law; at least partially frustrating the school funding initiative by recalibrating the current structure of the income tax rates to mitigate the bottom-line impact of the tax rate "surcharges" established by the voters; and, slowing down the voters' approved schedule for minimum wage increases. A constitutional challenge to the ranked choice voting initiative appears certain.

Adjusting a law adopted directly by the voters in order to incorporate it fairly and consistently into the existing body of Maine law is one thing. Repealing, frustrating or otherwise rendering the initiated law ineffective is something else. At issue will be the degree to which the Legislature scoops up these four sharply hit ground balls with soft hands. There is a limit to the voters' collective tolerance when the Legislature treats the

full electorate as just another special interest group.

Affected in no small part by the citizen initiatives, the pages ahead describe in two steps the legislative agenda MMA's 70-member Legislative Policy Committee has developed and intends to submit to the Legislature in 2017 for its consideration.

The first article describes the brainstorming effort, which was accomplished by means of an issues survey distributed to all the 2,100-plus selectmen, selectwomen and town and city councilors throughout the state.

The second article describes the legislative agenda in some detail, which was three months in the development. In an effort to provide some backdrop and historical context, a sidebar article is provided that describes the legislative agendas MMA has advanced over the last 10 legislative biennia, since 1997. The article provides an accounting for both the successful and unsuccessful adventures in this Association's practice of influencing, or at least trying to influence, the shaping of public policy. ■



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MMA's legislative agenda: A look back, 1997-2016

Here is a brief review of Maine Municipal Association's legislative platforms over the last 10 biennia. Among other things, it reveals MMA's longstanding interest and leadership in the area of tax policy.

1997-1998. During the 118th Legislature, MMA pushed for comprehensive tax reform that included the creation of a \$20,000 "Homestead" property tax exemption to help balance the state tax code's over-reliance on property tax revenue. That bill was quickly killed in committee. In 1998, however, a \$7,000 Homestead property tax exemption was enacted.

1999-2000. MMA advocated for a five-plank platform during the 1999-2000 legislative biennium that included an improved Local Road Assistance program, a more accountable school budget development process at the school district level, and the establishment of standards of eligibility for the "charitable" property tax exemption. Success was achieved on four of the five planks. All attempts to put more accountability in the charitable exemption law were killed in committee.

2001-2002. A seven-plank program was advanced during the 120th Legislature, including a proposal to increase municipal revenue sharing, address once again the "charitable" exemption law, close a loophole regarding the tax exemption for "pollution control" equipment, and improve the reimbursement formula governing the "current use" tax programs. Only the revenue sharing increase was enacted, but the actual implementation of that increase was repeatedly delayed by the Legislature subsequent to its enactment, and the increase was ultimately repealed in 2009.

2003-2004. "Question 1A" represented MMA's entire legislative platform during the 121st Legislature. The failure of the Legislature to tackle the related issues of tax reform and property tax relief prompted MMA to proceed with the citizen-initiative ap-

proach in 2002. The "School Finance and Tax Reform Act of 2003" – what came to be known as "Question 1A" – was developed within MMA in 2002 by a group of 12 municipal leaders from across the state. The initiative was presented to the Legislature after it received a record 100,000 signatures of support in November 2002. For the next 18 months it was fiercely opposed by the political, media and business establishment before finally being adopted by the voters on June 8, 2004.

2005-2006. MMA's LPC adopted an eight-plank legislative platform for the 122nd Legislature, including proposals to give municipalities more authority over street light ownership and operations, restrict the state from scheduling statewide bond referenda outside of the normal primary and general election schedules, and ensure that motor vehicle fine revenue earmarked for local government actually gets distributed to the towns, cities and counties that are entitled to receive that financial support. In addition to MMA's legislative platform, the Association closely monitored the Legislature's enactment of its "property tax reform" legislation (LD 1) in 2005. LD 1 was the Legislature's replacement version of the initiative adopted by the voters on June 8, 2004.

2007-2008. During this biennium, MMA advanced proposed changes in law that would: (1) bring more accountability and stability to the Tree Growth "current use" tax program; (2) establish more predictability and stability in the revenue sharing distribution system; (3) enhance the ability of municipalities to charge tax exempt institutions certain service fees to help pay for the municipal services the exempt corporations receive; and (4) further develop the governmental spending and accountability issues that appear to have been the driving force behind various tax and spending limitation initiatives advanced in recent years through the citizen initia-

tive process. None of the proposals was adopted by the Legislature as written, but identifiable progress was made on all four fronts.

In addition to the Association's legislative agenda, MMA's advocacy staff worked closely this session with the Legislature and with stakeholders on the bill to create a unified state-county corrections system and freeze the property tax contribution for county jails, as well as the bills to correct the many problems associated with the 2007 school consolidation law.

2009-2010. MMA continued to support comprehensive tax reform in 2009 by urging the newly elected 124th Legislature to take a second look at the 2007 comprehensive tax reform package that failed final enactment. In addition, MMA caused seven substantive bills to be submitted, which included:

Exempt property. A bill establishing a system whereby a municipality, through the adoption of an ordinance, could require certain tax exempt institutions to pay a service fee for vital municipal services such as public safety and snow removal.

Revenue sharing. A bill designed to prevent the Legislature from continuing to raid the Municipal Revenue Sharing Program through its abuse of the Local Government Efficiency Fund.

The integrity of education subsidy. A bill to prevent the Legislature from using the school subsidy appropriation to fund state personnel costs and other state programs.

School consolidation. A bill to convert the financial penalty for failing to meet the school consolidation standards into an incentive system to reward school consolidation efforts.

Building codes. Two codes-related bills were submitted. One bill was designed to clean up legislation enacted in 2008 creating a uniform statewide building code. The second provided an opportunity for qualifying municipalities to be delegated the author-

ity to conduct the life safety review of commercial building plans, rather than the State Fire Marshal's Office, in order to allow for a one-stop shopping development review process at the local level.

Credit cards at city hall. A bill allowing municipal governments to pass through to the consumer the credit card "merchant fees" that credit card companies charge to municipalities that accept credit cards.

No progress was made with respect to the exempt property issue, but every other MMA bill was satisfactorily addressed in one way or another before the Legislature finally adjourned in 2010.

2011-2012. In recognition of difficult economic times, MMA's legislative agenda for the 2011-2012 biennium focused on fixing problems, some large and some small, rather than promoting comprehensive reforms or fundamental structural change. A majority of the 16 bills developed by the Legislative Policy Committee and presented to the Legislature in early 2011 dealt with generally small but troubling state mandates that make it unnecessarily more difficult or expensive for local government to do its job. Included in the package of "anti-mandate" bills were measures to address an inequitable state boiler inspection system, the fledgling uniform state building code program, the expensive newspaper notice mandate, and municipal snow dump licensing requirements. There also was a bill to improve the level of municipal control over the local street lighting program. While progress was made on many of these fronts, the bigger bills advanced by MMA in 2011, such as the bills to better protect the revenue sharing program and address the state's policy on property (and excise) tax exemptions, were killed at the committee level.

2013-2014. Coming off the heels of a 2012 legislative session that resulted in an unprecedented \$84.5 million "transfer" of municipal revenue sharing dollars to state coffers, MMA's 70-member Legislative Policy Committee (LPC) developed a 2013-2014 agenda focused on "protecting the core". As a result, the Association's primary advocacy efforts were dedicated to: (1) stopping legislative raids on municipal revenue sharing; (2) reversing the trend by moving toward, rather

than away from, the state's obligation to fund 55% of the cost of K-12 education; (3) making sure that appropriate investments are made in the state's transportation infrastructure; and (4) finding alternative sources of financial assistance and more cost effective ways for municipalities to comply with the wastewater, drinking water and storm-water mandates embedded within the federal Clean Water Act.

In conjunction with its "protect the core" mission, the LPC advanced six specific pieces of legislation proposing to: (1) issue a \$100 million transportation bond; (2) provide greater municipal representation in the state road turnback process; (3) provide state aid for repairing public infrastructure damages resulting from a localized natural disaster; (4) directly link the cash circuitbreaker benefit with the responsibility to pay property taxes; (5) require the state to pay at least 90% of the costs of the "quality assurance review" mandate the Legislature imposed on the Public Safety Answering Points (PSAPs) for medically related E-9-1-1 calls; and (6) create a limited exemption to the "public records" definition for e-mail addresses in the municipality's possession that are used exclusively for providing one-way notifications.

Despite the "protect the core" efforts, the FY 2014-2015 budget adopted by the Legislature in 2013 transferred to state coffers an additional \$159 million in municipal revenue sharing resources over the biennium. A \$100 million transportation bond and \$10 million water quality protection bond were approved by the Legislature and sent to the voters. The public records legislation was enacted. As a result of the Legislature's action to repeal the Circuitbreaker program and replace it with a "property tax fairness credit" embedded into the state's income tax code, the legislation seeking to link circuitbreaker cash benefits with the responsibility to pay property taxes was

no longer necessary. The state road turnback bill was killed at the Committee level, as were the localized natural disaster and medically related E-9-1-1 quality assurance review bills.

2015-2016. Ten legislative initiatives were advanced by MMA's LPC over the 2015-2016 biennium. For the first time in the Association's history, a \$10 million bond proposal for the purpose of enhancing municipal efforts to expand high-speed broadband capacity was advanced by MMA, as well as a more traditional \$100 million highway and bridge bond. In the area of transportation, MMA's legislative agenda also included a proposal to restructure and modernize the state's "gas tax" in order to more adequately capitalize the state's Highway Fund, and a separate proposal to restore full funding for the Local Road Assistance Program (which the Legislature recently cut by 10%) was also advanced.

Two reverse-the-mandate bills were included in the package, one of which would give over to state government the task of administering the General Assistance program and the other of which would eliminate the building code mandate imposed six years ago on municipalities with populations over 4,000. Two proposals rounded out the legislative agenda. One would allow municipalities to organize their fire departments in a way that would require financial contributions from all property owners, even tax exempt institutions. The other gave municipalities some level of intervention authority in order to prevent abandoned buildings from becoming completely dilapidated.

The abandoned property legislation was enacted, and two transportation bond proposals – one for \$100 million and the other for \$85 million – were approved by the Legislature over the course of this biennium and sent to the voters. The remaining proposals in the legislative agenda, however, were ultimately rejected. ■

The Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine.

MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.

For more information visit the MMA website: www.memun.org

Then and now: Ranking the issues of high municipal priority

By State and Federal Relations Staff, MMA

In the summer of every even-numbered year, the Maine Municipal Association begins the process of developing its two-year legislative platform. The entire process spans several months, culminating in November when MMA's 70-member Legislative Policy Committee formally adopts the package of municipally related bills to be submitted to the Maine Legislature for its consideration.

Sometimes the municipal legislative agenda is focused on a single issue, as it was in 1997 when the association proposed the establishment of the Homestead property tax exemption and again in 2003, when the only item in the agenda was the initiative to require 55% state funding for K-12 education. In contrast, there are years when the municipal legislative agenda contains as many as a dozen bills dealing with array of municipal issues, both big and small.

The initial stage of the agenda development process involves gathering information from the state's municipal leaders. Over 2,100 selectmen, selectwomen, town and city councilors and municipal managers from all corners of the state were invited to participate in this year's legislative issues survey. A version of that survey that is sometimes used is designed to elicit a list of legislative solutions deemed important to the participant's community and region. In other years, the survey is less focused on specific legislative solutions. Instead, the town and city officials are asked to prioritize, on a scale of 1 to 5, the importance of various municipal issues listed in the survey.

This second prioritization method was used in the development of the 2017-2018 legislative agenda. Over 400 responding municipal officials prioritized the importance of 39 municipal issues ranging from state aid for education and roads to property

Table 1 – Open List of Potential Municipal Issues to be Ranked by Respondents (random order)

Economic development	The aging community/needs of the elderly
Recycling/composting programs	Regulation of medical marijuana facilities
Aging municipal workforce	Recruiting/retaining employees and volunteers
County jail funding	Comprehensive planning/land use management
Local Road Assistance Program	Cost of public education
Quality of public education	Comprehensive tax reform/restructuring the tax code
General Assistance administration	Solid waste disposal
Environmental regulations, generally	Shoreland zoning administration
School budget adoption process	Cooperation from state agencies
Drinking water/wastewater/storm water	County government, generally
State mandates	Energy conservation/renewable systems
Administration of Right to Know law	Municipal collaboration/regionalization
Property tax relief for low income residents	General property tax relief
Affordable housing	Financing infrastructure
Municipal revenue sharing	Environmental quality
Keeping pace with technology	Motor vehicle excise tax
Road maintenance/construction	Broadband/expansion of high speed internet
Tax exempt property	Employee benefits/retirement costs
Tree Growth tax law	
Workers' Compensation costs	
Distribution of school subsidy (GPA)	

tax relief and comprehensive tax reform to the repeal of unfunded mandates. *Table 1* provides the full list of issues the respondents were asked to rank according to importance or level of concern. All respondents were also invited to identify additional issues important to their community if not found on the survey's list.

Because the 2016 prioritization survey was a close replica of the one conducted nearly 30 years earlier, MMA is provided with the opportunity to identify shifts in the public policy issues of greatest municipal importance over the course of a generation.

Legislative Priorities – Then & Now. The information presented in

Table 2 shows that 30 years ago two very significant unfunded state mandates – one involving the closure and required capping of approximately 500 municipal landfills, and the other involving the requirements of an extensive “growth management” system – were of sufficient concern to municipal officials to be ranked at or near the top of the priority list. The Local Road Assistance Program, ever increasing property tax exposure to school funding and the need for general property tax relief rounded out the top five priorities of 1988.

Thirty years later, all things educational take the lead. As Table 3 indicates, three of the top five (and four of the top 12) issues of importance or concern to municipal officials in 2016 are directly related to K-12 education, including the cost of public education, the quality of education and the system governing the distribution of school subsidy. The state of the Municipal Revenue Sharing Program and the capacity to invest in road infrastructure round-out the top five areas of current concern.

Expanding the review of the two lists reveals shifts in the prioritization of traditional municipal issues over the last three decades and an emerging focus on some nontraditional issues.

For example, while municipal officials continue to be concerned with local level management of solid waste programs, its priority among the list of municipal concerns has descended from the top of the list in 1988 to just barely squeezing into the top 15 of 2016 concerns. The Legislature’s reversal on the Growth Management Act in the early 1990s, moving toward a voluntary rather than mandatory approach to comprehensive planning and town-wide zoning, has caused the prioritization of planning-related mandates to fall from a top tier to bottom tier municipal priority.

On the flipside, issues historically relegated to the periphery of the municipal radar are now front and center. As noted above, in 2016 four K-12 education related concerns occupied the top 12 list instead of just one.

Maine’s rapidly aging workforce is now generating increasing local focus on the ability to recruit and retain quality public and private sector employees. The need to attract younger

TABLE 2 – 1988 ISSUES OF PRIORITY – TOP 12
Ranked on a Scale of 1 (Lowest) to 5 (Highest)

	Rating
Solid waste disposal	4.50
Cost of public education	4.38
General property tax relief	4.11
Comprehensive planning/land use mgt.	3.83
Local Road Assistance Program	3.82
Workers’ Compensation costs	3.72
State mandates	3.68
Property tax relief for low income residents	3.49
Affordable housing	3.28
Cooperation from state agencies	3.19
Economic development	3.18
Tax exempt property	2.98

residents and high-tech jobs is also on the minds of local level leaders, as is the adaptation of local programs to serve the ever growing elderly component of each community’s resident population. Those programs could involve, for example, solid access to telemedicine services. For the young and the old, and all the businesses

in between, expanding broadband access to under-served and unserved regions of the state is gaining popularity among municipal officials.

In the pages that follow, the legislative agenda developed in response to the information provided by Maine’s municipal officers is described. ■

TABLE 3 – 2016 ISSUES OF PRIORITY – TOP 12
Ranked on a Scale of 1 (Lowest) to 5 (Highest)

	Rating
Cost of public education	4.5
Municipal Revenue Sharing	4.3
Quality of public education	4.2
Distribution of school subsidy (GPA)	4.1
Road maintenance/construction	4.1
Local Road Assistance Program	4.1
General property tax relief	4.0
Economic development	3.9
State mandates	3.9
Comprehensive tax reform/restructuring code	3.8
The aging community, needs of the elderly	3.8
School budget adoption process	3.7

Outlining and specifying: MMA's 2017-2018 legislative agenda

School funding, school budget ratification votes and the increasing and problematic reliance on property taxes top Maine Municipal Association's priorities.

By State and Federal Relations Staff, MMA

The Maine Municipal Association's Legislative Policy Committee has developed and is preparing to advance 10 pieces of legislation that are responsive to the public policy issues identified as high priority by the municipal leaders across the state. The previous article explained how the issues survey sent to Maine's 2,000-plus municipal officers set the table, just as a similar survey was instrumental in establishing the municipal agenda 30 years ago. The 10 bills just crafted by the Policy Committee can be sorted into three general categories: (1) preserving the integrity of the school funding process; (2) utilizing both old and new strategies to relieve the ever increasing burden on the property taxpayers; and (3) addressing a couple of emerging municipal issues that three decades ago would have been beyond the limits of the municipal imagination.

Preserving the integrity of the school funding system. Municipal officials believe strongly that the Legislature should allocate substantially more financial resources to support K-12 public education than is currently allocated, both for the purpose of improving the equity of educational opportunity statewide and to protect Maine's property taxpayers. To that end, Maine's municipal leaders advanced the citizen initiative adopted by the voters in 2004 that directed the Legislature to honor the unfulfilled promise it made in 1984 to cover 55% of the total cost.

Question 2 on this November's ballot is a related citizen initiative designed to achieve the 55% funding goal. Now that Question 2 has been adopted by the voters, and assuming the Legislature will not continue to

frustrate the voters' intention that the state fund at least 55% of the Essential Programs and Services school funding model (EPS), the implementation of the Question 2 initiative should include a recalibration of that model in order to most equitably distribute the increased state-share contribution. The goal is straightforward: To preserve the integrity of the EPS school funding model and improve its responsiveness.

Specifically, the MMA bill amends the EPS school funding model by:

- Establishing a responsive adjustment that distributes supplementary subsidy when current-year or "real time" data: (1) reveal significant increases in specialized student enrollments; (2) substantiate the start-up implementation of pre-K through Grade 2 programming; or (3) substantiate the sudden loss of municipal fiscal capacity.

- Removing the various "transition percentages" that have allowed the model to be funded by the state at less than the 55% level.

- Adjusting the model's system of recognizing for subsidy purposes increased school costs for economically disadvantaged students.

- Repealing the arbitrary requirement in the current model to ignore actual data regarding each school system's special education student population.

- Repealing the current system of reducing state subsidy proportionate to the school's receipt of federal "Title 1" funds, to allow for truly supplementary federal funding.

- Allowing some legitimate student transportation costs to be included in the model's "subsidizable costs" that go beyond direct transportation

between the school and the student's home, to include other educationally important student transportation costs.

- Speeding up the implementation of enhanced subsidy provided to "minimum receiver" school systems.

- Amending the "fiscal capacity" element of the model, which is simply the measure of each municipality's taxable base, to appropriately reflect the real-life taxable base in the circumstance of sudden and severe reductions in taxable value.

Also on the education front, municipal officials in many school jurisdictions are becoming increasingly frustrated with the statutorily required school budget adoption process that mandates the "school budget validation referendum." The process that requires the ratification of an earlier vote of the legislative body creates a disconnect in the budget adoption process and can easily result in multiple expensive and poorly attended referenda elections that fail to result in budget approval deep into the school year.

MMA's bill on this educational subject restores home rule authority to the municipal school systems regarding their school budget adoption process. The bill also authorizes the Regional School Units to implement alternative procedures governing the adoption of the school budget, contingent upon district voter approval.

Strategies to relieve the property tax burden. Three major tax systems are utilized in Maine to pay for state and local governmental services: the property tax, income tax and sales tax. For a very long time, the municipal focus has been on how each of these tax systems is proportionately burdened

to cover the cost of state, county and local government. The municipal belief is that the burdens should be shared in rough equity among the three tax systems so as to mitigate the effect of each tax system's dark side, which for the property tax is its regressivity.

Unfortunately, as shown in the accompanying table, we're going in the wrong direction. Ten years ago, of the aggregate tax collection generated by the three tax systems, the property tax contributed 42%, the income tax 35% and the sales tax just 23%. As unbalanced as the mix was in 2007, now it's worse, with the property tax burden hovering between 45% and

46%, the income tax burden slipping down to 31% and the sales tax burden unchanged at 23%.

Although such an imbalance may be acceptable to some, it is unacceptable to the state's municipal leaders. The municipal legislative agenda includes both familiar and novel strategies to address this public policy problem.

Revenue sharing. After nearly 40 years as a stable state policy of tremendous municipal importance, the Legislature began deserting the Municipal Revenue Sharing Partnership Program in 2009. Each year since, the financial redirection grew larger until nearly \$100 million each year was be-

ing diverted away from the dedicated municipal distribution and into the state government's budget. In 2015, the Legislature statutorily reduced the size of the municipal revenue sharing distribution by 60% – from 5% of all state sales and income taxes collected to just 2%. This \$100 million annual reduction is scheduled to stay in place until Fiscal Year 2020, when the commitment would return to the original 5% level.

The MMA legislation provides a ramped-up restoration of the percentage of state sales and income tax revenue dedicated to the Local Government Fund from the temporary 2% level to the historical 5% level over a

TABLE 1 - TAX MIX (2005-2015)

Year	\$ Tax Revenue				% of Total Tax Revenue		
	Property	Income	Sales	Total	Property	Income	Sales
2005	\$1,721,736,987	\$1,406,088,242	\$941,221,839	\$4,069,047,068	42%	35%	23%
2006	1,791,109,664	1,442,522,221	993,202,706	4,226,834,591	42%	34%	23%
2007	1,876,244,644	1,537,786,028	1,020,864,253	4,434,894,925	42%	35%	23%
2008	1,955,410,009	1,627,982,772	1,035,157,942	4,618,550,723	42%	35%	22%
2009	2,004,979,062	1,508,523,695	974,636,315	4,488,139,072	45%	34%	22%
2010	2,047,787,605	1,473,328,488	954,025,264	4,475,141,357	46%	33%	21%
2011	2,100,857,920	1,624,280,132	976,359,279	4,701,497,331	45%	35%	21%
2012	2,175,579,309	1,666,335,184	1,029,513,306	4,871,427,799	45%	34%	21%
2013	2,267,190,093	1,693,849,829	1,036,887,515	4,997,927,437	45%	34%	21%
2014	2,344,821,945	1,589,045,886	1,156,331,624	5,090,199,455	46%	31%	23%
2015	2,426,921,238	1,667,907,728	1,244,308,294	5,339,137,260	45%	31%	23%

Sources: Maine Revenue Services, Municipal Valuation Return Statistical Summaries. Maine Revenue Forecasting Commission Reports.





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three-year period, beginning in 2018.

Tax-exempt property. MMA's Legislative Policy Committee developed three bills which in different ways seek to address some irregularities or imbalances in the state's policy regarding property tax exempt corporations.

"Incidental use." The state's Supreme Judicial Court has issued at least two decisions that allow corporations and institutions that are exempt from paying property taxes to use their property for purposes not related to their charitable or educational mission and still retain their tax-exempt status. These decisions seem to ignore an express "exclusive-use" requirement in Maine law. The Court relied on a finding that the alternative, non-mission-based use of the property, and the revenue that alternative use generated, was "incidental" to the organization's mission and therefore allowed.

The MMA bill responds to the Law Court decisions by affirming the requirement that tax-exempt property be used exclusively for the charitable or "literary and scientific" purposes and expressly disallowing revenue-producing incidental use.

"Exemption by extension." A long-es-

tablished principle of tax-exemption policy is that the exemption is only provided to the qualified owner of the exempt property and not to other non-exempt interests "by extension." As a result, taxable property that is merely rented or leased by tax-exempt organizations is not exempt from taxation because the true owner of the property is not entitled to exempt status. The only exception to this general principle in Maine law is the personal property leased by hospitals and certain other medical service corporations, which is exempt from taxation even though the owner of the property (the lessor) is not qualified for the exemption.

The MMA bill repeals the unique property tax exemption provided to the personal property leased by hospitals and, instead, expressly qualifies that property for exempt status under the Business Equipment Tax Exemption (BETE) program.

"Service fees." Finally on this issue, the municipalities have been seeking for decades an authority to require tax-exempt corporations to pay service fees to their host municipalities to cover the direct costs of the municipal

services provided to those corporations by their municipal hosts.

The related MMA bill would implement the most comprehensively developed service fee authority developed by members of a legislatively established task force in 2013, which is designed to balance the interests of municipalities (being fairly compensated for public services directly provided) and the interests of the tax-exempt corporations (having the value of their charitable services to their host communities appropriately recognized).

Disconnect county jails from property taxation. Legislation enacted in 2008 was designed to provide state-level oversight with respect to the management of the county jails in order to maximize the efficient use of the 15 jails' collective capacity and ensure that individual jail facility business models were coordinated and not resulting in excessive incarceration costs. Suffering from a lack of buy-in from the direct participants and clear direction on jurisdictional issues, this experiment in "jail consolidation" was repealed in 2015.

A central component of the jail

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“consolidation” initiative was the establishment of a cap on the amount of property taxes that could be assessed for the purposes of jail operations. In 2008, \$62.5 million was assessed for jail operation purposes and that became the established cap, with each county capped at its proportional share of the \$62.5 million total.

When the Legislature repealed the consolidated jail management system, it amended the property tax cap by allowing each county’s assessment for jail operation purposes to increase by up to 3% each year. The current Administration and certain legislative leaders have made it clear that they believe the limited property tax cap should be repealed. Now that the management of the county jails has been returned to the counties, the thinking goes, the counties should be required to obtain the revenue to support those jails through property taxation without statutory limitation.

From the municipal perspective, the failed jail consolidation effort stimulated a deeper observation. The incarceration of people who have been convicted of breaking the state’s laws is the state’s financial responsibility. The fact that the county jails are funded almost entirely by the property taxpayers is a throw-back to a much earlier time, before the income tax was established in 1969 and the sales tax was established in 1953. This was a time when the property tax paid for just about all governmental services. It is only by force of habit and conve-

nient political inertia that the county jails remain the financial responsibility of Maine’s property owners.

MMA will advance two legislative initiatives to respond to the issues central to the management and funding of the county jails:

- The primary initiative shifts all jail management authority and ownership responsibility to state government, with a strictly capped property tax contribution.

- Another bill establishes an express authority for each county’s budget or finance committee to have final authority with respect to the jail operation components of the county budget.

Emerging issues. The survey instrument used 30 years ago for the purpose of eliciting the policy issues of highest priority for Maine’s municipal leaders did not include the regulation of marijuana growing, manufacturing and distribution facilities. Solid waste facilities were the subject of the day.

Similarly, cable television franchising agreements were the hot “telecommunication” issue of that time, not the installation of high speed broadband infrastructure. As these and other emerging issues work their way up the priority ladder, the Association’s Legislative Policy Committee develops a response.

Marijuana Facilities and Local Land Use Regulation. The implementation of the Medical Marijuana Act has not been well integrated with the municipal land use regulatory system, particularly with respect to the medical marijuana growing and dispensing systems in caregiver facilities. In some cases the owners and operators of those facilities believe they are immune from land use regulation of any kind and may legally operate entirely underground. Undeniably, however, caregiver facilities present the same land use and incompatibility issues that may apply to any other commercial operation, including traffic and

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parking management, security, fire and public safety, building and electric code compliance, etc. These land use management issues are magnified when multiple caregivers combine their legally separate operations under one roof.


Against this backdrop, MMA's bills seeks to close any loopholes that might allow certain facilities to evade local regulatory oversight by clarifying the municipal authority to adopt and enforce land use regulations that apply to facilities that grow, process, package, distribute, sell or provide marijuana in the same manner as any other commercial activities generating the same land use and compatibility impacts.

Economic Development: Broadband Access. From the municipal perspective, high-quality and high-speed broadband infrastructure reaching throughout the state is necessary to attract and support economic development as well as demographic in-migration. Work is being done in a handful of communities that have the resources to expand access to high speed internet, but it is not the average municipality that can afford to make these investments with-

out any financial assistance.

MMA's legislation would send to the voters a proposed \$10 million bond issue for the purpose of providing resources for the expansion of high-speed internet infrastructure on the condition that recipients with lim-

ited exceptions may only use the funds to install broadband (high-speed) transmission infrastructure, and that the publicly funded infrastructure must be made available to service providers in an open access, non-discriminatory manner. ■



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Local referendum questions mostly get positive votes

Maine turnout, which typically ranks high nationally, was so strong some towns had to copy blank ballots. 'This is a good problem to have,' said one city clerk.

By Liz Mockler

Mainers voted in droves across the state on Nov. 8, with about 70 percent of all registered voters casting ballots. Nationally, only half of registered American voters bothered to show up at the polls.

Some municipal clerks needed to call Secretary of State Matthew Dunlap on Election Day to seek permission to copy ballots as their stock began to dwindle. Maine typically boasts among the highest voter turnout rates in the country, even in non-presidential elections. According to published election reports, voting was heavy everywhere in Maine.

"We had a phenomenal, phenomenal voter turnout," Westbrook City Clerk Angela Holmes said. "We were joking here earlier that if there's a problem on Election Day, this is a good problem to have."

In some communities, hundreds of voters were lined up when clerks opened the doors for voting.

In addition to electing a president and deciding other state and federal races, Mainers supported all but one of the six state referendum questions: They legalized recreational marijuana (pending a recount), increased the minimum wage to \$12 an hour over time, supported a surtax to help raise more money for education, endorsed rank choice voting and approved \$100 million in transportation bonds.

Only the question requiring more background checks on firearm sales was defeated.

A recount of the marijuana referendum has been approved – the vote was 374,608 to 372,343, or 50.15 percent to 49.85 percent. The recount



began in early December and will take several weeks to complete, state officials said.

Many Maine municipal officials hustled before and after the election to prepare for marijuana being legalized for recreational use. Medicinal marijuana has been legal in Maine for almost a decade.

Among the communities that imposed moratoriums on marijuana shops and related issues were: Brunswick, South Portland, Rumford, Livermore, New Sharon, Caribou, Cumberland and Bangor. Many other are considering commercial moratoriums or prohibitions.

Municipal overview

In local referendum secret voting, residents from some of the biggest to smallest communities decided questions ranging from room rentals to sex offender restrictions to ordinance changes and term limits.

As usual, Mainers statewide in general strongly endorsed infrastructure work, particularly road improvements.

Following is a sampling of some of the myriad issues that municipal vot-

ers decided on Nov. 8 and what voters decided.

Augusta: Capital city voters endorsed borrowing \$6 million to expand and renovate one of its fire stations, built in 1920, and another \$1.3 million for street and sidewalk upgrades. The fire station vote was 3,331 to 2,819; the second proposal passed by a vote of 4,023 to 2,156. The city will use money from multiple Tax Increment Financing (TIF) districts so the projects' cost will not affect the property tax rate. The infrastructure money will be used to repair sidewalks on two streets and \$650,000 of it will be used to pave several streets. Voters in all four city wards endorsed the two referendums.

Boothbay: With an impressive turnout of 85 percent, voters endorsed three questions regarding a roundabout in the tourism town of 2,100. Boothbay was one of Maine's municipalities that offer early voting. By Election Day, 950 residents had voted and another 1,663 voted on Nov. 8.

Camden: Voters passed three referendums dealing with solid waste, boat storage and noise levels. By a vote of

Liz Mockler is a freelance writer from Randolph and regular contributor to the *Maine Townsman*.
lizmockler@hotmail.com

2,774 to 498, residents agreed to join Rockport, Hope and Lincolnville in endorsing a contract for up to five years with the nonprofit ecomaine for solid waste disposal. Voters agreed by a vote of 2,484 to 757 to allow outdoor boat storage in the Coastal Residential District of the oceanfront town. They also agreed to lower the legal noise limits between 11 p.m. and 7 a.m. daily. Permits may be issued for special events under the amended police ordinance. The vote was 2,308 to 1,051.

Clinton: Voters agreed to allow retail liquor sales every day except Sunday by a vote of 1,122 to 526. Based on the size of the town, state law allows up to three agency liquor stores. Retailers already are allowed to sell beer and wine. Town restaurants and bars will still be banned from selling spirits, beer or wine. Stores are allowed to sell beer and wine. The closest agency store is in Benton, a 10-minute drive away. The new rule will take effect in the spring.

Gray: Voters rejected a \$500,000 bond request to help the nonprofit Maine Narrow Gauge Railroad Co. & Museum build a museum in town. The vote was 2,757 to 2,078. The money

would have helped build a facility on Route 100. It currently operates in Portland, but the museum property there is listed for sale. The museum board had searched six years for a new site and decided on Gray. The Narrow Gauge Railroad offers rides in a historic passenger train along 1.5 miles of Portland's eastern waterfront during the summer and holiday season. Opponents did not want to fund a private enterprise and feared the railroad would ask for more money in the future. Supporters thought the museum would be an economic benefit for the town of 7,700.

Harrison: Voters endorsed a five-year bond of up to \$1.37 million for work on six roads. The vote was 995 to 487. The town doesn't usually use bonds, but under the plan the work can be done more quickly and save money in the long run.

Hallowell: An estimated 80 percent of voters endorsed a new charter that will guide how the city conducts and plans for business over the next several decades. The vote was 1,122 to 279. A city charter commission was created last year to recommend changes to the charter, which had not

had a significant overhaul in 60 years. The changes will affect how the police and fire chiefs are appointed annually and the terms of city councilors and the mayor. The new charter will stagger councilors' terms by three years instead of two-year terms that result in the potential turnover of half the council annually.

Kennebunk: On a combined vote of 13,385 to 6,918, residents of the seven towns served by the Kennebunk, Kennebunkport and Wells Water District decided to stop treating the public water with fluoride. Voters in a 2002 referendum decided to begin fluoridating the water. Water district officials said they were pleased with the 2016 vote outcome.

Kennebunkport: Voters approved a land use ordinance change to allow homeowners to rent rooms for two days to one week to a single party, but restricts multiple rentals within the one-week period to different people. The vote was 1,266 to 1,068. Homeowners who already had permission to rent a room in their home are grandfathered under the conditions imposed at the time of approval. Town election officials said voter turnout



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was 89 percent, just missing the record set in 2008 of 92 percent.

Monmouth: Residents voted 1,429 to 902 to approve adding nearly 100 acres of vacant lots to a downtown TIF district, with the tax revenue to be reserved for economic development. In all, five Main Street properties will be added to the existing TIF district.

Norway: The town fire chief will be appointed rather than elected after voters approved the question by a margin of 1,757 to 839. Selectmen said they wanted more control over who was hired and to be able to impose greater accountability to the town manager, board and public. Primarily, they also were concerned that popular but unqualified people would be elected, which would be a detriment to the town. As with other hires, the town manager would make the choice and then seek select board confirmation.

Ogunquit: Voters imposed term limits on selectmen and budget committee members by a vote of 613 to

207, effective next July. Officials will be limited to two consecutive three-year terms, but can seek election again after a one-year hiatus. They are not restricted from immediately serving on other town boards. Residents also voted 567 to 303 to restrict private helicopters in town airspace and further require that they land only on heliports west of Interstate 95. A minimum of two acres will be required to build a heliport. Voters also rejected a \$2.2 million project to design and repair the village school to convert it for recreational use and a new learning center. The vote was 320 in favor to 565 opposed.

Oxbow Plantation: Voters agreed by a vote of 37 to 2 to disband and join Maine's Unorganized Territory. The Legislature approved the change last March. The hamlet will be known as Township 9 Range 6 starting next July 1. Oxbow is a gateway to the North Maine Woods in Aroostook County. With the vote, residents traded local control for help from the state and county as its population has declined while costs have increased. The mill rate is expected to drop from 20.9 to 6.47.

Palermo: With only three votes separating the outcome, voters passed a shoreland zoning ordinance establishing distances from the normal high-water lines in great ponds, rivers, wetlands and streams. The vote was

410 to 407.

Paris: Residents decided to continue with the town meeting form of government rather than secret voting on warrant articles at the polls. The vote was 1,502 to 1,097. Elected officials recommended the change to increase participation, since town meeting attendance is down. Secret balloting would have given residents all day to vote, rather than the shorter town meeting.

Rockland: Voters agreed by 2-to-1 or larger margins to amend four bond ordinances as recommended by the city council dealing with sewer, library and road repairs. The fourth bond request was to borrow up to \$400,000 to improve the local fiber optics broadband network. A fifth referendum question asked voters to join 18 other municipalities to approve building a new Mid-Coast School of Technology in Rockland. The 20-year cost will be borne by 19 municipalities in Region 9. As of Nov. 8, voters in 12 of the 19 communities had approved the deal by a combined vote of 15,187 to 6,990.

Skowhegan: Voters easily defeated a request to change three town jobs from elective to appointive. The road commissioner, town clerk and treasurer will remain elected positions. Last month's request was the third in 10 years. Meanwhile, voters in the six towns that comprise the Skowhegan-based SAD 54 voted 5,363 to 3,220 to

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borrow \$1.6 million to repair the roofs on seven of the district's eight schools. The work will be done next summer.

Waldoboro: Voters rejected a pay-as-you-throw (PAYT) method for solid waste disposal. The vote was 904 to 1,868. PAYT programs have been successful in other Maine cities and towns. It encourages recycling and therefore reduces expensive landfill tipping fees. In other action, voters agreed by a vote 1,680 to 1,064 to support a \$25 million bond to build a new Mid-Coast School of Technology in Rockland.

Vassalboro: Voters rejected both local referendums on the Nov. 8 ballot. One asked to use surplus funds to build a sidewalk in the East Village area. It was defeated by a vote of 981 to 1,186. The state would have paid \$234,400 in federal grant funds, leaving the town to pay \$293,000. Voters also spurned a change to the town's shoreland zoning ordinance by a vote of 969 to 1,360. The proposal would have changed the ordinance language to match state terminology.

Wiscasset: After months of debate, voters settled the question of whether firefighters could continue

to wash their personal vehicles at the fire station, a policy selectmen and other town officials tried to stop. The firefighters gathered enough petition signatures to put the question directly to voters, who voted 1,502 to 707 to allow the practice to continue. Selectmen last April moved to halt the practice because it violated the town policy on use of town equipment. The town may be liable if anyone is injured while washing their personal vehicles, officials said.

Yarmouth: Residents voted over-

whelmingly to set boundaries for where certain convicted sex offenders could live. The vote was 4,110 to 1,430. Offenders of children under the age of 14 cannot live within 750 feet of any public or private school. They also are banned from a new zone that encompasses most of the Main Street business district. The new restrictions do not apply to offenders who lived in the prohibited areas prior to passage of the ordinance last month. Presently, there are three sex offenders living in town. ■

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Another year, another municipal election roundup in Maine

By Janine Pineo

Augusta: Former Interim Mayor **Mark O'Brien** was elected to fill one of two at-large seats on the city council. O'Brien received 5,924 votes and was the top vote-getter in all four wards, while **Corey Wilson** got 3,908 votes in the three-way race. **Harold Elliot Jr.** won the Ward 3 council seat, receiving 786 votes.

Bangor: Incumbent **Gibran Graham** won re-election to the city council with 5,972 votes, and two former councilors will return to the council, **Daniel Tremble** with 7,607 votes and **Cary Weston** with 6,970, after a five-way race for three council seats. All will serve three-year terms. Councilors **Nelson Durgin** and **Josh Plourde** did not seek re-election after serving three-year terms.

Bowdoinham: Two newcomers won election in a three-way race for two selectmen seats. **Jeremy Cluchey** and **David Engler** will replace **Doug Tourtelotte** and **Wendy Cunningham**, who decided not to run again. Cluchey received 1,063 votes and Engler 860, 57 votes more than the third candidate.

Brewer: Incumbents **Kevin J. M. O'Connell** and **Beverly Uhlenhake** easily won re-election for three-year terms on the city council, collecting 3,463 votes and 2,453 votes, respectively. The third candidate garnered 1,202 votes. O'Connell also was elected mayor, having served in the position once before.

Bucksport: Incumbents **David Keene** and **Robert Carmichael Jr.** held off a third candidate to win re-election to the town council for three-year terms. Keene received 1,788 votes, followed by Carmichael with 1,443 votes. The third candidate received 964 votes.

Cape Elizabeth: Incumbent **Caitlin Jordan** won re-election to the town

council with 4,142 votes. Her cousin, **Penny Jordan**, received 3,940 votes, beating a third challenger for the two available seats.

Chesterfield: Two vacated select board seats were filled when voters elected **Tiffany Estabrook** to finish the remainder of a three-year term and **Tyler Jenness** for the remainder of a one-year term. Jenness won as a write-in candidate since no one submitted papers for the board vacancy.

China: A newcomer won the most votes in a seven-way race for three seats on the board of selectmen. **Jefrey LaVerdiere** garnered 1,119 votes, followed by incumbents **Joann Austin** with 1,001 votes and **Neil Farrington** with 985 votes. **Robert MacFarland**, the current board chairman, lost his re-election bid with 895 votes.

Dexter: Two incumbents and a newcomer won three-year terms on the town council in a four-way race that saw one incumbent defeated. **Sharon Grant** and **Mark Robichaud** will serve another term, while **Peter Haskell** will replace **Ronald Apel**. Grant received the most votes at 1,249, followed by Robichaud with 1,140, Haskell with 1,049 and Apel with 723. Newcomer **Charles Ellms** overwhelmingly beat two challengers to fill a vacancy on the council for a year. Ellms received 52 percent of the vote to win the seat.

Ellsworth: Incumbents **Gary Fortier** and **Marc Blanchette** were re-elected to their seats on the city council along with **Dawn Ihle Hudson**, who is chairwoman of the school board. Fortier was the top vote-getter in the four-way race, earning 2,697 votes. Hudson was next with 2,539 votes and Blanchette with 2,397 votes. The fourth candidate received 1,834 votes. The school board vacancy created by Hudson's move to the council will be filled at a later date.

Fairfield: **Aaron Rowden** and **Beverly Busque** won the two available

town council seats in a three-way race. Incumbent Rowden received 1,958 votes, with Busque receiving 1,581 votes. The third challenger garnered 1,391 votes. Councilor **Stephanie Thibodeau** did not seek re-election.

Fort Fairfield: Incumbent **Robert Kilcollins** lost his bid for re-election in a three-way race for two seats on the town council. Kilcollins received 986 votes, compared to 1,047 votes for **Mitchell Butler**, who has previously served on the council, and 1,033 votes for newcomer **Melissa Libby**.

Gardiner: Three at-large seats were filled in a seven-way race for city council. Incumbent **Jon Ault** garnered 1,320 votes, while first-time candidate **Timothy Cusick** earned 1,269 votes. Another newcomer, **Maryann White** received 1,093 votes. The other four candidates included a third first-time candidate, two former councilors and incumbent **Maureen Blanchard**.

Hallowell: Newcomer **Kara Walker** was elected to the city council in a vote of 253 to 115, defeating incumbent **Phil Lindley**, who served 15 years on the council.

Kittery: Former Town Councilor **Jeff Pelletier** was the top vote-getter in a three-way race for two seats on the council. Pelletier received 3,052 votes, with incumbent **Chuck Denault** earning 2,832 votes. Incumbent **Russell White** lost his bid for re-election with 2,597 votes.

Lincolntonville: Former Selectman **Rosendel Gerry** won 634 votes to finish the remainder of a vacated seat on the board of selectmen. The other two candidates earned 592 and 173 votes.

Millinocket: An incumbent and a newcomer overwhelmingly won three-year terms on the town council. In the four-way race, incumbent **Charles Pray** received 1,704 votes and newcomer **Cody McEwen** earned 1,273. The other candidates garnered 549

Janine Pineo is a freelance writer from Hudson and regular contributor to the *Maine Townsman*, jepineo@gmail.com.

and 378 votes. For a vacated seat to fill a two-year term, **Joseph Clark** won 1,699 votes, easily defeating the challenger, who collected 471 votes.

Oakland: A five-way race for two seats on the town council resulted in incumbent **Michael Perkins** winning the majority of the votes with 2,508. Budget Committee member **Harold Buzzell Jr.** received 1,306 votes.

Old Orchard Beach: Three incumbents won re-election in a five-way race for town council. **Shawn E. O'Neill** garnered the most votes with 3,150, followed by **Michael Tousignant** with 2,803 and **Kenneth Blow** with 2,666.

Portland: School board member **Pious Ali** overwhelmingly won the at-large city council seat with 63 percent of the vote. Ali is Portland's first African-born Muslim elected to the council, winning 21,010 votes. The incumbent at-large and Ali's closest challenger, **Jon Hinck**, received 6,840 votes in the three-way race. In District 3, first-time candidate **Brian Batson** defeated incumbent **Edward Suslovic**, 3,561 to 3,219.

Rockland: Two candidates won in a four-way race for seats on the city

council. Incumbent **Larry Prichett** and former Harbor Master **Edward Glaser** had the most votes to serve three-year terms.

Sanford: One incumbent won and one lost re-election to the city council in a six-way race for the two available three-year terms. Incumbent **John Tuttle Jr.** received the most votes, 3,511, followed by newcomer **Robert Stackpole** with 2,635 votes. Incumbent **Victor DiGregorio** placed fourth

with 1,516 votes.

Scarborough: Incumbent **Bill Donovan** and first-time candidate **Kathleen Foley** won the two available seats on the town council in a four-way race. Foley received the most votes with 6,735 and Donovan won 6,433 votes. The challengers had 4,048 and 3,842 votes.

South Portland: A seven-way race for two seats on the city council ended up with a hand recount to decide

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who won the second seat. Incumbent **Maxine Beecher** was the top vote-getter with 5,203 votes. In the recount of just the two contested results, incumbent **Susan Henderson** was the second-place finisher, with a tally of 50 more votes than **Kate Lewis**, who requested the recount. On Nov. 18, the final tally was 4,495 to 4,445, and both candidates signed a document accepting the new results as final.

Topsham: Two incumbents won re-election in a three-way race for two selectmen seats. **Marie Brilliant** and **William Thompson Jr.** received 3,486 votes and 1,939 votes, respectively. The challenger received 1,828 votes.

Waterville: Two newcomers were elected to the city council, filling seats vacated by two councilors who chose not to run for re-election. **Lauren Lessing** won the Ward 3 seat with a vote of 768-192. **Nicholas Mark Champagne** won the Ward 5 seat with a vote of 680-465. Councilor Rosemary Winslow and Chairman John O'Donnell opted not to run for re-election.

Westbrook: Voters chose a new mayor by a margin of less than 1 percent, only 90 votes separating the top two vote-getters. Councilor **Michael Sanphy** received 3,231 votes, or 36 percent. His closest challenger was **Michael Shaughnessy**, who garnered 3,141 votes, or 35 percent. The available at-large council seat was won by **Ann Peoples**, who received 4,248 votes to her two challengers and their tallies of 2,125 and 2,025. Incumbent **Victor Chau** handily won re-election with a vote of 1,041-564.

Winslow: An incumbent and a first-time candidate won the two town council seats. Councilor **Ken Fletcher** received 2,949 votes while **Jeff West** won 2,199 votes. This will be Fletcher's third term on the council.

Woolwich: Incumbent **Dale Chadbourne** won the most votes in a four-way race for two selectmen seats. Chadbourne received 1,238 votes, with second-place vote-getter **Allen Green** receiving 703 votes. The two challengers received 554 and 453 votes. ■

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Training — On-site training in a variety of topics.

Testing — Entry level police and fire testing.

For more information on all Personnel Services programs, or general personnel management information, contact David Barrett, Director of Personnel Services and Labor Relations at 1-800-452-8786.

For more information visit the MMA website:

www.memun.org

PEOPLE

Scarborough Police Officer **John Gill** was named to a new advisory council that will oversee the national Police Assisted Addiction and Recovery Initiative. The council was created last year in response to a nationwide epidemic of drug addiction and deaths. The network is comprised of more than 150 police departments and 200 drug treatment centers across the country. Gill is a coordinator for HOPE (Heroin-Opioid Prevention Effort), created in 2015 and which helps addicts into rehabilitation programs.

West Paris voters elected **Michael Grass** as selectman in a special town meeting on Oct. 13. Grass, who was unchallenged and elected from the floor, had previously served on the town's planning board. He replaces **Peter Collette**, who served about half of his three-year term on the board.

Kennebunk selectmen named Human Resources Director **Michael Pardue** as a long-term interim manager, when Town Manager **Barry Tibbetts** retires next June. Tibbetts announced last month he will step down when his contract expires. Pardue will serve as manager for as long as June 2018. Selectmen were responding to residents' desire to have a temporary manager in place for at least a year. Pardue, who joined the town staff in 2015 as interim public works director, also has served as interim human resource director. Tibbetts is a former president of the Maine Town, City & County Management Association.



Patricia Blanchette

Longtime former Bangor City Councilor **Patricia Blanchette** died Oct. 21 in Florida at the age of 73. Blanchette did not seek re-election last year so she could move south. She served the city for more than 30 years

and also served as Penobscot County treasurer and as a state representative. She was remembered for her passionate service to the city and her constituents. She was elected as Bangor's second-ever female council chair in 1996.

Mathew Guilfoyle of Monmouth, a Winthrop dispatcher and part-time police



Mathew Guilfoyle

officer in Farmingdale and Richmond, died at the age of 37 on Thanksgiving Day. He died at home after a medical emergency and was with his wife and infant daughter at the time. He is being remembered as a kind, caring and loyal man who also worked for the Hallowell, Monmouth, Greenville and Farmingdale police departments. A fundraising effort on the You Caring website is underway to help his wife and daughter.

Former York Beach Fire Department Assistant Chief **Samuel Horn** was killed on Nov. 11 when the tractor-trailer he was driving struck a utility pole in Hollis. Horn, who was 66, had served the York department from 1968 to his retirement in 2003. He remained with the department as a volunteer.

Old Orchard Beach Deputy Police Chief **Timothy DeLuca** was named chief of the Houlton Police Department in mid-November, replacing **Joseph McKenna**, who resigned after 18 months on the job. DeLuca, who served the Old Orchard Beach department for 32 years, said he favors community policing and is eager to make the move north. DeLuca is no stranger to Aroostook County; he owns a camp in Oakfield and plans to live in Houlton.

Longtime former Skowhegan Town Manager **Patricia Dickey** was awarded the Alton W. Whittemore Award for outstanding service in a November ceremony. The award is presented during the Skowhegan Area Chamber of Commerce's annual banquet. Dickey, 77, managed Skowhegan for 23 years, and worked in the town office for a total of 41 years as administrative assistant, bookkeeper and manager. Dickey, born in England, married a native Skowhegan in 1960 and moved to town in 1961. She remains an active volunteer with Main Street Skowhegan, the library and the Skowhegan Women's Aid program.

Wiscasset Selectman **Judy Flanagan** resigned her post Nov. 15, effective immediately. Flanagan's announcement stunned selectmen, who asked her to



Judy Flanagan

reconsider. Flanagan said she believed she could help the town more in a lesser role. She served several terms in the 1980s and early 2000s. She was the first woman elected to the board in the town's history and the first woman elected selectmen chairman. She was elected to her most recent term in June 2015.

Jack Gaudet was hired in November as Mexico town manager, replacing longtime Maine manager **John Madigan**, who was elected Nov. 8 to the Maine House of Representatives. Madigan had managed both Mexico and Rumford for two years. Gaudet, who grew up in Mexico, served in the military for 36 years before returning home and joining the town fire department. Madigan, who has managed Maine towns for decades, defeated his challenger for the House seat by a vote of 1,717 to 1,114.

Oxford selectmen accepted the resignation of Town Manager **Derik Goodine** on Nov. 17, five months after he started the job. The resignation was effective immediately. Goodine, who previously managed Bucksport and Naples, had replaced longtime manager **Michael Chammings**, who was hired last January as Auburn economic and community development director. Selectmen appointed Deputy Treasurer **Rebecca Lippincott** as interim manager.

Peru voters decided Nov. 18 that they like selectmen **Wendy Henderson** and **John Witherell** and rejected separate petitions to recall them from office. Chairman Henderson retained her seat by a vote of 100-149. Vice Chairman Witherell kept his seat on a vote of 102-146.

Charly Haversat Matheson was elected a trustee of the Freeport Water District on Nov. 8 with eight write-in votes. There were no candidates on the ballot to replace **Michael Ashby**, who did not seek re-election. Matheson accepted the three-year post on Nov. 12. Matheson is a consultant who has lived in Freeport for more than 20 years. ■

STATEWIDE

Congress's decision to use a continuing budget resolution through March 2017 rather than pass a new spending package will affect municipalities across Maine. The resolution means federal funding will be frozen at current rates. In addition to basics such as transportation, job training programs, money to fight the growing drug crisis, new funding for Bath Iron Works and help for small farmers will all be affected. The state budget also will take a fiscal hit because funding will remain unchanged until further Congressional action is taken.

BREWER

The city council in November signed a five-year deal with a contractor who will haul and pay to dispose of the city's sludge at a secure Hartland landfill, at a cost of \$963,000. Brewer's sludge has been sent to a Plymouth fertilizer processing plant for 20 years, but the fertilizer facility began sending its waste to Casella Organics in Unity on June 1 and will permanently close this month.

EASTPORT

The state has authorized a special doe-only hunt for two weeks to reduce the deer population of about 100 by an estimated 30 animals. Longtime residents cannot recall seeing so many deer wandering in the streets, parking lots and in their backyards. Recently, a herd of 14 deer traversed a main road in the town of 1,300, with no worries about cars coming at them from both directions. The special hunt was approved only for this year, but will be reconsidered again next fall.

JEFFERSON

The town's Fire and Rescue Department celebrated its 75th year with a Nov. 12 open house and turkey supper at the fire station. The department's first equipment was bought with donations from the community. Its first vehicle, a 1926 Chevrolet truck, was purchased several years later from the Boothbay Fire Department. In August, the fire and rescue service's founders were recognized with an award from the Lincoln County Fire Chiefs Association.

NEW ON THE WEB www.memun.org

Highlights of what's been added at www.memun.org since the last edition of the Maine Townsman.

Legalized Marijuana. Maine Municipal Association's Legal Services Department posted three documents – including two model ordinances – for members grappling with the implications of the impending legal use of recreational marijuana.

Election Integrity PSA. MMA produced two videos, featuring three prominent municipal clerks, that briefly explain the election process in Maine and assure voters that: "Your vote counts." Our public-service campaign is under way.

New OT Rules on Hold. A federal judge in Texas has, at least temporarily, held up new wage and hour rules promulgated from the U.S. Labor Department that would have affected many municipal employees.

MILTON TOWNSHIP

A wind power proposal is being expedited by the state and a decision could be rendered as early as this month. The project's fate will be determined by any perceived impact of the wind towers on recreational and scenic resources in the area that includes the western Maine towns of Greenwood, Woodstock and Bethel. The tower wind farm would generate an estimated 40 megawatts of power.

NORWAY

To save money, the town landfill will close Dec. 1 and residents will leave their solid waste and construction debris at the transfer station for further handling. Officials will analyze the change next year and decide whether to reopen the landfill.

PRESQUE ISLE

After 20 years of talk and debate, construction has started on the first phase of a 7.5-mile bypass around the city, with the contractor planning to work through the winter if the weather is as mild as last year. The bypass will reduce industrial traffic through the Route 1 downtown and residential areas. The project will include a bridge and underpass. The state had budgeted \$14 million for the first 1.8 miles of the project, but the low bidder will do the work for \$7.9 million. The remaining funds will cover the cost of planning, inspection and compensation for property owners who are being displaced

by the first phase of the bypass project. The first leg of the project is expected to be done by November 2018, with the entire bypass opening to traffic in 2020. The budget for the five-mile second phase has not yet been determined by state transportation officials.

SACO

The city council is considering a ban on single-use plastic shopping bags and requiring residents to pay five cents for paper bags. Councilors want to take time to study the impact on residents and businesses before making a decision. A final vote on the proposal could be taken as early as mid-December. Saco would become the fourth community to totally ban plastic shopping bags, behind York, Freeport and Kennebunk. Other municipalities have imposed per-bag fees and the trend is expected to continue. In September, the Saco council approved a ban on polystyrene, or Styrofoam, products.

WOODLAND

Selectmen are looking to buy a geothermal heat pump to keep the town office warm, since the old fuel oil system is struggling. The town office also includes the area school superintendent's office and the municipal garage. During winter months, staff sometimes find their office temperature as low as 52 degrees, despite the system being set at 68 degrees at night. ■

2017 MMA HOLIDAY SCHEDULE

2017 HOLIDAY SCHEDULE MAINE MUNICIPAL ASSOCIATION

<u>Holidays</u>	<u>Day/Date to be observed</u>
Christmas Day (2016)	Monday– December 26, 2016
New Year’s Day	Monday – January 2, 2017
Martin Luther King, Jr. Day	Monday – January 16, 2017
Washington’s Birthday/Presidents’ Day	Monday - February 20, 2017
Patriots Day	Monday - April 17, 2017
Memorial Day	Monday - May 29, 2017
Independence Day	Tuesday – July 4, 2017
Labor Day	Monday – September 4, 2017
Columbus Day	Monday - October 9, 2017
Veterans Day	Friday – November 10, 2017
Thanksgiving Day	Thursday - November 23, 2017
Thanksgiving Friday	Friday – November 24, 2017
Christmas Day	Monday – December 25, 2017

Please note: For MMA, holidays that fall on Saturday are observed on the preceding Friday, and holidays that fall on Sunday are observed on the following Monday.

LEGAL NOTES

Legal Marijuana & Municipalities

Last month Maine voters narrowly approved a ballot measure legalizing the personal use, possession and cultivation of marijuana by persons 21 years of age and older and the operation of retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs for on-premises sale and consumption.

Barring other developments (for instance, a recount resulting in reversal of the vote), the new law will take effect either 30 days after the Governor proclaims the results of the vote or, if additional funds are required to implement the new law (as appears likely), 45 days after the next regular session of the Legislature convenes. In any event, the effective date of the new law will almost certainly be no earlier than sometime in January 2017, but it could be considerably later depending on a number of as-yet-unknowns.

As of the effective date – whenever it may be – it will be legal for adults to use, possess and cultivate “recreational” amounts of marijuana. However, retail marijuana stores and social clubs and commercial-scale cultivation, manufacturing and testing facilities will require annual State licenses under the new law. And the Department of Agriculture, Conservation and Forestry has up to nine months to adopt rules for licensing and operation of these establishments. So as a practical matter they will not be able to obtain licenses or operate legally until at least late 2017.

Under the new law, all required state licenses apparently require local approval as well, though it is not yet clear who on the local level decides or on what basis. Municipalities are also authorized, by ordinance, to regulate the number, location and operation of retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, and to impose a separate local licensing requirement. In the alternative, municipalities may, by ordinance, entirely prohibit any or all of these establishments.

For municipalities that may want to allow but regulate retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs, it will be difficult to calculate how

MUNICIPAL CALENDAR

JANUARY 1 — New Year’s Day 2017 – A legal holiday. (4 M.R.S.A. §1051)

ON OR BEFORE JANUARY 15 — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, 11 State House Station, Augusta, ME 04333-0011 [22 MRSA §4311].

JANUARY 16 — Martin Luther King, Jr. Day - a legal holiday (4 MRSA §1051).

BY JANUARY 20 — Treasurer of State to post notice of maximum interest rate which can be charged on delinquent taxes (36 M.R.S.A. §505).

JANUARY 31 — Deadline to submit quarterly withholding taxes to State Tax Assessor (36 MRSA § 5253).

DURING JANUARY — In towns with a March annual meeting, selectmen should begin preparing the town meeting warrant and town report. Obtain reports from all departments: schools, roads, etc. Arrange to have annual audit made before town meeting. ■

best to do so until after final rulemaking by the department and perhaps corrective or at least clarifying legislation. This will all probably take many months. To prevent unwanted developments in the meantime, we recommend adopting a moratorium ordinance. For a sample, see: <https://goo.gl/ulzgLX>.

For general information and advice on moratorium ordinances, see our “Information Packet” on the subject, available free to members at www.memun.org.

For municipalities that want to prohibit retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs entirely, there is no need to wait for rulemaking or more legislation. An ordinance prohibiting these establishments can be enacted any time (but probably the sooner the better) before State licensing begins, probably in late 2017. For a sample, see: <https://goo.gl/ulzgLX>.

For more on the legal as well as the practical implications of the new law, be sure and watch for two full-length articles planned for the February 2017 issue of the *Maine Townsman*.

Also, MMA is sponsoring a workshop on the new law on Feb. 28, 2017, probably in the Freeport area. Presenters will be attorneys from the Portland law firm of Drummond Woodsum. Watch for details and registration information on our website (www.memun.org). (By R.P.F.)

‘Defective’ Petitions

As we’ve noted here before, there are a variety of reasons why a town meeting petition may be rejected (see “Voter Petitions: What’s a ‘Reasonable’ Refusal,” *Maine Townsman*, Legal Notes, March 2010). For instance, if it lacks the requisite number of signatures or fails to request a meeting or include a proposed warrant article. Or it is unintelligible. Or it calls for action that is beyond the voters’ authority. Or it asks for reconsideration of a recent vote. Or it demands an immediate meeting but the subject matter is not an emergency.

These are all legitimate grounds for refusing a town meeting petition. But there are other technicalities that would not justify rejecting a petition as “defective.” These include:

Petition not addressed to selectmen. Though it is customary for a town meeting petition to be addressed to the selectmen, no law explicitly requires it. Provided the petition clearly asks for a town meeting vote, and presupposing that it bears the required number of signatures, meets all other legal requirements, and is otherwise lawful, it should be honored.

Petition not delivered to selectmen. As long as the petition is physically delivered to an official who is customarily an agent or intermediary for the selectmen, such as the clerk or the selectmen’s secretary or assistant, this should be sufficient.

Petition fails to specify “article.” If it is

LEGAL NOTES

reasonably clear what the proposed question is, without guesswork or additional drafting, the failure to characterize it as an "article" should not disqualify the petition. (But if a petition proposes adoption of an ordinance but does not include the wording of the ordinance itself, it is legally insufficient – the selectmen are not required to draft anything.)

Petition includes multiple articles. The law does not limit town meeting petitions to just one article apiece, so this shouldn't disqualify the petition.

Petition includes both legal and illegal articles. This does not justify rejecting the entire petition. Only those articles that are illegal should be refused; the others should go to the voters, again assuming the petition is signed by a sufficient number of voters and complies with all other legal requirements.

Alert readers will recall that there are some significant new legal requirements for voter petitions, including: (1) circulators must be Maine residents and registered voters somewhere in Maine; (2) they must personally witness all signatures to the petition; and (3) they must verify this by circulator's affidavit (a signed, notarized statement). These are not mere "technicalities" that may be overlooked – failure to fully comply with them justifies refusing a petition. For full details, see "New Requirements for Local Petition," *Maine Townsman*, Legal Notes, April 2016. (By R.P.F.)

Financial Emergencies & Unanticipated Expenses

We're often asked whether selectmen have some inherent authority under State law to overdraft an account or to spend from surplus or some other source to address emergencies or pay for unanticipated expenses. The answer generally speaking is no, they don't.

Any authority to exceed budgeted appropriations in case of emergency or unanticipated expense must come from town meeting (the budgetary authority in most municipalities). Unless the voters have already (1) established a contingency fund for emergencies, or (2) authorized the selectmen to spend from surplus or unexpended appropriations, or (3) funded a reserve account, a special town meeting will be required to authorize an overdraft or appropriate additional funds.

Ideally, this should take place *before* additional expenditures are made. (A special town meeting can be called with only a seven-day warrant.) But we recognize this may not always be possible or realistic, so where immediate action is imperative – for example, replacing a broken furnace in January – the selectmen may choose to authorize the expenditure anyway and trust the voters to ratify it afterward. This strategy is dependent on the good faith of both the selectmen and the voters, however, and should be employed only if and as absolutely necessary since the selectmen may be personally liable for the expenditure if the voters later refuse to ratify it.

As we said, there is generally no emergency spending authority under State law, but there are two exceptions. For road maintenance (including snow plowing) and repairs, 23 M.R.S.A. § 2705 authorizes the road commissioner, with the written consent of the selectmen, to spend up to 15% more than was budgeted if that amount is insufficient (see "Winter Road Budgets," *Maine Townsman*,

Legal Notes, March 2014).

Also, for general assistance, because municipalities have a statutory obligation to provide aid to eligible persons whether or not sufficient funds have been appropriated, the authority to overdraft the GA budget, if necessary, is implied (see "Failing to Fund GA," *Maine Townsman*, Legal Notes, June 2011).

For more on overdrafts and budgeting generally, see Chapter 8 of MMA's *Municipal Officers Manual*, available free to members at www.memun.org. (By R.P.F.) ■

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2017 SPRING BOND ISSUE SCHEDULE

Capital financing through the Bond Bank's General Bond Resolution Program allows borrowers to take advantage of the Bond Bank's high investment grade rating, low interest rates and reduced issuance and post issuance costs. Traditionally twice a year, in the spring and fall, the Bond Bank will consolidate eligible applicants and engage in a bond sale. From application to receipt of funds the bond issuance process usually lasts three to four months. Below is the schedule for the Bond Bank's Spring Issue.

FEBRUARY						
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

Wednesday, February 15th

Application Deadline.

MARCH						
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Wednesday, March 22nd

Application approval (Board Meeting).

Monday, April 10th

Preliminary opinions and loan agreements due from bond counsel of each borrower.

APRIL						
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Wednesday, April 12th

Last date for signing school contracts and rates in place for water districts. PUC Approvals due.

Monday, April 24th & Tuesday, April 25th

Maine Municipal Bond Bank Pricing.

Wednesday, April 26th

Maine Municipal Bond Bank Sale Meeting (Board Meeting).

Tuesday, May 16th

Final documents due from bond counsel.

Wednesday, May 24th

Pre-Closing.

MAY						
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Thursday, May 25th

Closing - Bond Proceeds Available (1:00 PM)

If you would like to participate in or have any questions regarding the 2017 Spring Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



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