

December 2013

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The Magazine of the Maine Municipal Association



2014 LEGISLATIVE PREVIEW
When Past Is Prologue

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COVER PHOTO: Freelance Photographer Jenna Beaulieu captured this unique cover image of a public mural in Fort Kent that is a tribute to the northern Maine community's ferry heritage.



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The 2014 Session: Past is Prologue

By Geoff Herman, Director of State
& Federal Relations, MMA

If asked, Julius Caesar would probably say that the upcoming legislative session, like the land mass of Gaul, is entirely divided into three parts.

One part is made up of the bills “carried over” from the long 2013 legislative session into the shorter 2014 counterpart. In all, 213 bills have been in a state of extended gestation since they were first conceived a year ago. Of these 200-plus carryover bills, 42 would impact local government if enacted, at least to some degree. Only a small handful of those municipally related bills would carry significant impact. A companion article describes those initiatives.

The second part is made up of the newly introduced bills that have been allowed into the 2014 session by the 10 member Legislative Council. From a pool of nearly 400 submissions, the Council has given the nod to 128 new bills. A couple dozen of the new bills would appear to carry municipal impacts if enacted, at least by the ring of their title. Another companion article organizes that upcoming legislation by subject area, and sheds as much light as is currently available to MMA on the details behind the titles.

The third part is made up of the work products generated by five separate, legislatively created task forces, soon to be published and formally presented to the Appropriations Committee as reports and recommendations. Each one of these working groups was given a charge that directly impacts municipal government in a significant way. The recommendations of at least four of these task forces are likely to grab the closest attention of municipal officials over the course of the four-month legislative session that begins in January. The appointed make-up of

each task force, along with the specific duties ascribed to each by the Legislature, is provided in a sidebar to this article.

TAX EXPENDITURE REVIEW TASK FORCE

Established in Part S of the state budget enacted six months ago, the statutory charge given to the 13-member Tax Expenditure Review Task Force was packed with dynamite.

The core task of this working group is to identify \$40 million worth of existing state-level “tax expenditures” (i.e., tax exemptions, credits, exclusions, deductions, preferential rates, etc.) that should be repealed in order to bring the state budget into balance by June 30, 2015. If the Task Force fails, or if the Task Force succeeds in developing recommendations but the Legislature subsequently fails to implement those recommendations, the law calls for the \$40 million to be deducted from the municipal revenue sharing distribution. An additional \$40 million hit to revenue sharing in 2015, after the Legislature already yanked \$85 million out of the program in order to fund state government spending, would effectively breach the entire revenue sharing contract. The final twist of the legislative knife.

The Task Force met six times between Sept. 16 and Dec. 2. A significant amount of the Task Force’s time was spent developing a system to evaluate all tax expenditures in a formal, periodic way over the years ahead to make sure they are still meeting the public policy goals that justify their existence. This article does not detail the recommended review system. From the municipal perspective, this element of the Task Force’s charge,

although not unimportant, was a distraction to the main task of either repealing \$40 million worth of tax exemptions or causing the forfeit of municipal revenue sharing resources, which was so eagerly put up as collateral.

As it turns out, the Task Force did not identify a clear \$40 million worth of tax expenditures that should be repealed or redesigned. Instead, the Task Force will be presenting a list of proposals to the Appropriations Committee that are focused on eliminating or reducing certain business-related tax incentives. The idea was that the various proposals would be ranked in popularity by the members of the Task Force, although “popularity” may not be the right word. The ranked-choice voting exercise, however, did not end up providing any coherent results.

In almost every case, the specifics of how each proposal would be implemented in Maine’s tax code greatly impact the value of the savings accrued to the state budget in FY 15. Since those specifics have not been provided, the dollar savings attributed to each proposal is just the roughest of estimates that generally overstates savings. With that disclaimer, the aggregate value of the savings associated with the Tax Force’s list – optimistically calculated – is around \$30 million.

To add to the uncertainty, the Task Force is seeking the authority to reconvene two months from now to review its recommendations in light of a report that has been commissioned by the Department of Economic and Community Development (DECED). The report, to be written by a private-sector vendor and released around Feb. 1, 2014, is supposed to evaluate the effectiveness of the state’s eco-

Task Force Membership and Charges

Tax Expenditure Task Force (State Budget Part S)

Duties:

- Examine the inventory of state “tax expenditures” (all tax exemptions, credits, deductions, or other exceptions to the general administration of the tax).
- Evaluate expenditures that benefit businesses for economic growth or exempt property from municipal taxation.
- Review how other states measure expenditures for effectiveness.
- Determine the purpose of the evaluated expenditures and how the effectiveness of the expenditure can be measured.
- Prioritize expenditures with the highest priorities for “necessity of life” expenditures, expenditures that avoid pyramiding of taxation, and essential economic development expenditures.
- Develop a formal process of periodically evaluating the effectiveness of the expenditures.
- Recommend the repeal or reduction of tax expenditures to achieve a savings within the biennium of \$40 million.

Membership:

Sen. Anne Haskell (Chair, Cumberland Cty.)
 Sen. Roger Katz (Kennebec Cty.)
 Rep. Adam Goode (Chair, Bangor)
 Rep. Don Marean (Hollis)
 Mike Allen (Associate Commissioner of Maine Tax Policy for the Department of Administration and Financial Services, Maine Revenue Services)
 Merrill Barter (tax expert, Baker, Newman and Noyes)
 Geoff Baur (tax expert, IDEXX laboratories)
 Nelson Durgin (municipal budget expert, Bangor City Councilor)
 Chuck Lawton (economist, Planning Decisions)
 Cathy Lee (Lee International, business representative)
 Ryan Low (State budget expert)
 Garrett Martin (economist, Maine Center for Economic Policy)
 Lisa Miller (former State Representative, member of the general public)

Nonprofit Tax Review Task Force (State Budget Part AA)

Duties: Evaluate the feasibility and desirability of implementing a temporary tax assessment on certain nonprofit organizations generating approximately \$100 million annually. Review how other cities and states treat nonprofit organizations for purposes of service charges, payments in lieu of taxes and property taxes. Make recommendations on the following:

- The nonprofit organizations against which the assessment will be imposed.
- How the nonprofit organizations will be valued for the purpose of the assessment.
- How the assessment will be calculated, including adjustments for nonprofits with disproportionate assets relative to their operating budgets.
- How to credit the nonprofits for any financial contributions already being paid.
- How to transfer the collected revenue to municipalities.

Membership:

Sawin Millett (Chair, Commissioner of the Department of Administrative and Financial Services)
 Sen. Patrick Flood (Kennebec Cty.)
 Sen. Rebecca Millett (Cumberland Cty.)
 Rep. Gary Knight (Livermore Falls)
 Rep. Mike Carey (Lewiston)
 Brenda Peluso (Director of Policy, Maine Association of Nonprofits)
 Joe Grube (Assessor, City of Lewiston)
 Jim Libby (Academic Dean, Thomas College)
 Arthur Blank (CEO, Mt. Desert Island Hospital)

BETR-to-BETE Task Force (State Budget Part K)

Duties:

- Study the most efficient and economical way to transition the Business Equipment Tax Reimbursement program (BETR) into the Business Equipment Tax Exemption program (BETE).
- Review options for implementing the conversion of BETR property to tax exempt status, consider impacts to the businesses, municipalities and state budget, and prioritize the options for the Legislature’s consideration.

Membership:

David Ledew (Director, Property Tax Division, Maine Revenue Services)
 Denise Garland (Deputy Commissioner, Department of Economic and Community Development)
 Linda Caprara (Maine State Chamber of Commerce)
 Ralph St. Pierre (Assistant City Manager, Augusta)
 William Cohen (Verso Paper, Bucksport)

Mandate Working Group (Part WW)

Duties:

- Review mandates imposed by the state on municipalities.
- Identify the financial impact of state mandates on municipal budgets.
- Identify those mandates that can be mitigated or eliminated.
- Identify the cost to the state of mitigating or eliminating the identified mandates.

Membership:

Sawin Millett (Chair, Commissioner of the Department of Administrative and Financial Services)
 Michael Brennan (Town Manager, Bucksport)
 John Bubier (City Manager, Biddeford)
 Paul Castonguay (City Assessor, Waterville)
 Clint Deschene (City Manager, Auburn)
 Geoff Herman (Maine Municipal Association)
 John Madigan (Town Manager, Mexico)
 Roger Raymond (Town Manager, Hermon)

County Corrections Working Group (Joint Order)

Duties:

- Review the current structure of the county jail corrections system, including sources and predictability of revenues and costs, in order to determine methods for long-term sustainability of funding, best practices and necessary processes.
- Review and propose revisions, if necessary, to the mission and authority of the State Board of Corrections.
- Clarify the structure and authority of the unified system of corrections and the State Board of Corrections and develop recommendations to strengthen centralization of the system and control and coordination of operations.

Membership:

David Flanagan (Public member and Chair)
 Sen. Patrick Flood (Kennebec Cty.)
 Rep. Aaron Frey (Bangor)
 Maurice Ouellette (York County Sheriff)
 Peter Crichton (Cumberland County Manager)
 John Lebel (Androscoggin County Jail Administrator)
 Robert Devlin (Kennebec County Administrator)
 Captain Marcia Alexander (Kennebec County Corrections Administrator)
 Joel Merry (Sagadahoc County Sheriff)
 Lawrence Dawson (Sagadahoc County Commissioner)
 Greg Zinzer (York County Commissioner)
 Peter Baldacci (Penobscot County Commissioner)
 James Cloutier (Cumberland County Commissioner)

conomic development programs, including the various tax-based incentives. The Task Force wants to review the DECD report before finalizing its recommendations. Meanwhile, the Sword of Damocles lingers.

The bottom line on all of this is that there is no clear bottom line. Municipal revenue sharing is still on the chopping block, where more than a few politicians in Augusta seem to want to keep it.

Here are the Task Force recommendations in no particular order:

- Eliminate BETR eligibility for retail personal property (\$1-\$3 million).
- Eliminate the Pine Tree Development Zone incentive tax credit (\$3.3 million).
- Eliminate the “Last-In-First-Out” business inventory expense option (\$10 million).
- Place a cap on the Historic Building Rehabilitation tax credit (\$2.9 million).
- Amend the sales tax application for vending machine products (\$0.4 million).
- Eliminate three research and technology tax credits:

- Research Expense Tax Credit (\$0.85 million).
- Hi-Tech Investment Tax Credit (\$1 million).
- And, Supercredit for Substantially Increased Research and Development (\$4 million).
 - Cap the “Opportunity ME” tax credit at 2014 levels (\$1.7 million).
 - Cap ETIF reimbursements by 20% (\$1.5 million).
 - Sweep accumulated unappropriated revenue surpluses from Tax Relief Fund (\$4 million).
 - Return BETR back to a 12 year-only program (value unknown).
 - Close offshore income tax havens (value unknown).
 - Apply sales tax rate to retail lodging values when purchased at discount rates by travel service agencies (value unknown).
 - And, apply sales tax to television media obtained on-line to match application to cable and satellite television services (value unknown).

NONPROFIT TAX REVIEW

There is a backstory that led to the creation of the Nonprofit Tax Review

Task Force in Part AA of the state budget and the peculiar wording of its charge (see sidebar on page 6).

In the days and hours before the state budget negotiations were finalized last May, the Republicans on the Appropriations Committee advanced a proposal to impose a 2 percent temporary property tax on all non-governmental tax exempt institutions with a property value exceeding \$250,000. That proposal was estimated to generate approximately \$100 million which would be distributed to the municipalities according to some revenue sharing model. The proposal was withdrawn shortly after being presented for the reasons that it was not entirely thought through, there was no time to schedule a public hearing, and many details regarding implementation and impact were unknown. As an alternative to the new tax on nonprofits, the Appropriations Committee agreed to address the \$180 million municipal revenue sharing hole Gov. LePage proposed in the state budget by imposing temporary increases to the sales tax rates, generating \$125 million. The property taxpayers ended up eating



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the difference.

Voila the “Nonprofit Tax Review Task Force.” Simply put, the charge was to take a closer look at the original proposal and see how it could be made to work.

The “Nonprofit Task Force” met five times between Oct. 30 and Dec. 9, 2013. For a host of reasons, the Task Force quickly concluded that the original proposal could not be made to work. The idea of taxing or imposing fees on Maine’s nonprofits was and remains a non-starter for the members of the panel representing the hospitals, colleges and other tax exempt institutions. For several different reasons, the original proposal also did not work for the rest of the Task Force membership. The idea of the state imposing a tax on nonprofit institutions with the revenue going to Augusta, and then somehow redistributed to the municipalities, generated several concerns. Would the state actually redistribute the revenue or just keep it for itself? If the revenue is being collected because of the service demands the exempt institutions place on host municipality Z, why would the revenue be distributed to non-host municipalities A-Y?

Staying as much as possible within its charge, the Task Force developed an alternative approach, at least in concept.

By unanimous opinion, and in direct response to the charge given the Task Force, the 9-members on the working group agreed that it was “neither feasible nor desirable” to implement a tax on the assessed value of a broad array of tax exempt nonprofit institutions for the purpose of generating any sum approaching \$100 million which would be collected by the state, either on a temporary basis or as a permanent policy.

Instead, the Task Force spent almost all of its five meetings discussing a significantly scaled-back, municipally oriented alternative. With steady, respectful resistance from the panelists representing the tax-exempt institutions, several Task Force members engaged the group in the development of a straw-man proposal. The working proposal would expand existing law to allow municipalities to impose fees on the larger tax-exempt institutions to cover the costs of municipal services (public safety, public

works) directly provided to the institutions.

As developed for the purpose of evaluation, the working proposal included the following core elements.

Starting Point. 36 MRSA, section 508, which for several decades has allowed municipalities to adopt ordinances that impose service charges on rental housing that is 100% exempt from taxation, was the starting point.

Proposed expansion. The straw-man proposal would expand the types of nonprofit organizations that could potentially be made subject to municipal service charges to include “benevolent and charitable” organizations, “literary and scientific” institutions, the chambers of commerce and boards of trade, and fraternal organizations. The property of churches and veterans’ organizations would be exempt from the imposition of any service charges.

Threshold. In order to be subject to a service charge under this proposal, the tax exempt organization must have a gross annual revenue, generated within the host community, that exceeds \$500,000.

Calculating the charge. Current law requires the municipal ordinance to contain a methodology to reasonably calculate the cost of the local government services provided to the tax exempt facilities. Under the straw-man proposal, the service charge applied to a nonprofit institution would be calculated as the difference between the cost of municipal services provided directly to the tax exempt facility, reasonably calculated, offset by the value of contributions the exempt facility provides to the host municipality and its residents, as reasonably calculated. The way those two values are calculated would have to be established in the ordinance.

Overall cap. After the municipal cost calculation is offset by the calculated value of the nonprofit’s contribution, the net amount is compared to 2% of the nonprofit’s locally generated gross annual revenue. Whichever number is smaller would become the allowable service charge.

A handful of service center communities with high concentrations of exempt property were asked to evaluate the impacts of this proposal. Bath, Biddeford, Caribou, Lewiston, Lubec, Presque Isle and Rockport participat-

ed in the exercise. That preliminary data was presented to the Task Force at its final meeting in mid-December.

A number of factors came together at the final meeting. The preliminary data was reviewed. The Task Force recognized it was up against a hard deadline. An extraordinary effort was made to get a consensus proposal out of the Task Force for the Appropriations Committee to consider. For all those reasons, it was decided to abandon the effort of detailing a specific amendment to tax law in favor of a more generalized recommendation.

By a 5-3 vote with one member absent and the representatives of the tax exempt nonprofits dissenting, the Task Force adopted the following recommendation.

“The Task Force further suggests guidance to the Appropriations Committee and Taxation Committee going forward on this matter to utilize the following discussion parameters:

In further discussion of any impositions of taxation or service costs applicable to non-profit entities, we suggest that those deliberations be limited under Title 36 solely to consideration of locally applied (actual cost) service charges on nonprofits; giving necessary consideration of supportable thresholds such as size (as determined by annual local revenue or annual local income), caps on assessment, appropriate offsets and/or consideration of other impacts to communities and the nonprofit entities. Such determinations would require more time than the Task Force currently has, but it is our hope that this guidance provides helpful direction to the Appropriations and Taxation Committees in the Second Session of the 126th Legislature.”

BETR-TO-BETE CONVERSION TASK FORCE

The spawn that ultimately developed into the BETR-to-BETE Task Force was the element of the state budget proposed by Gov. LePage – Part K – that converted all the non-retail property enrolled in the Business Equipment Tax Reimbursement program (BETR) to exempt status. As proposed, the impacts were convoluted, difficult to assess, counterintuitive and sharply negative to both the municipal and business communities. Part K got blasted during the public hearings from all sides, and the Governor’s proposal did not go forward. To achieve the \$11-plus million in

Minority Report for the BETE-BETR Task Force

This minority report dissents from the formal recommendations of the Task Force for three reasons.

The Task Force's recommendation breaks a commitment to local government by exempting retail personal property from taxation. The first recommendation of the Task Force is that "*Beginning in 2015, all property that qualifies for the BETR program would begin to be transitioned into the BETE program.*" The recommendation goes on to describe a four-year transition system, running from 2015 through 2018. Throughout that four year period, all of the working personal property enrolled in the Business Equipment Tax Reimbursement Program (BETR) for the 23 year period between the inception of that program in 1996 until the end of the conversion period in 2018 would be converted from taxable property to tax exempt property. The Task Force does not know with any accuracy the value of the property it is proposing to exempt from taxation. The total number has been estimated at \$3 billion, which is roughly equivalent to exempting all the taxable value of the cities of Lewiston and Augusta combined. The Task Force also does not know how much of the total value is retail personal property. Perhaps retail personal property makes up 10% of the total, perhaps 15%. The Task Force does not know.

Retail personal property is generally subject to taxation in most states in the nation. In fact, it is common in states that tax different classes of property at different rates to apply a higher rate of taxation against retail personal property than residential real estate. Also, retail property has never been exempt from taxation in Maine's history. When the Business Equipment Tax Exemption program (BETE) was enacted, the Legislature made a clear decision not to allow exempt status for retail personal property. The Task Force recommendation overturns that decision and breaks a commitment that was made to municipal government. The municipalities are totally perplexed by the Legislature breaking its agreements and commitments with local government and the property taxpayers who support local government. Therefore, I cannot support this recommendation.

The Task Force recommendation to exempt \$3 billion of taxable property imposes negative impacts on municipal government and Maine's property taxpayers, adding to the sharply negative impacts already enacted in 2013. The owners of the property currently enrolled in the BETR program were never promised that their property would become exempt from taxation in the future. In fact, from 1996 through 2007, the owners of that property had no expectation for anything more than receiving reimbursement for the taxes they paid on qualifying property for the first 12 years of that property's life. The municipalities, on the other hand, had every right to expect the personal property to be a part of the municipal property tax base for the useful life of the property. The Task Force recommendation gives an exemption to the business community which it never had and was never promised by taking a tax base away from the municipal communities, the retention of which has always been embedded in Maine law.

I recognize that the charge given to this Task Force was somewhat narrowly construed to recommend a method for transitioning the property in the BETR program to the BETE program. Short of the state guaranteeing 100% reimbursement for the exempted property, there is no way to develop that recommendation without damaging Maine's towns and cities, frustrating their capacity to provide local services, and imposing a greater burden on the non-exempt property taxpayers who pay for the services provided to all. As the municipal representative on this Task Force, I cannot in good conscience lend my support to a set of recommendations that is so damaging to local government. Maine's towns and cities are already reeling from the damage inflicted by the 126th Legislature in 2013, including crippling and

unprecedented cuts to the municipal revenue sharing program and Circuitbreaker property tax relief program for low income residents, as well as the first-time-in-history cutbacks to the Local Road Assistance Program and the shift of the teachers' retirement premium onto Maine's property taxpayers.

We understand that the business community would prefer a complete exemption for their tax obligation with respect to personal property rather than a reimbursement system. With an exemption, they do not have to risk legislative decisions to shortchange the reimbursement from year to year. But when I compare the legislative risk that the business community may occasionally have to incur to the extraordinary damage being visited on municipal government year after year in ever increasing doses, there is no comparison in equity or fairness. Maine's towns and cities work very hard to develop their tax bases through the economic development investments they are able to make. The municipalities should not now be required to relinquish the product of those investments, which are not easily provided, at the whim of the state.

The Task Force's recommendations constitute yet another unfunded state mandate in the area of assessing administration, which is already overburdened with state mandates. For those communities with any significant amount of commercial or industrial property, managing the BETR and BETE programs at the local level is already one of the most significant unfunded state mandates in their assessing departments.

One set of forms and administrative procedures tracks the BETR property that is less than 12 years old. Another form and process tracks the BETR property that is older than 12 years old. Another form and process tracks the BETE property. The owners of the property are often unaware of their annual reporting requirements and have to be notified and re-notified. The categories of property eligible for BETE overlap with the categories eligible for BETR and the rules governing which is which are complicated and counterintuitive. The methodology required in calculating the value of exempt property for the purposes of determining the municipality's valuation and setting the tax rate is convoluted and can lead to error if extraordinary care is not taken.

The Task Force recommendation takes that complexity to a new level. Property would be subject to partial taxation and partial exemption, which is an extremely rare occurrence in Maine law. The partial taxation system would be "ramped down" and applied to property which already is subject to "ramped down" reimbursement rates, so two ramps would be affecting both the rate at which property is taxed and, separately, the rate at which the business or municipal communities would be reimbursed, with every year being different on both counts, and with the municipalities left to figure out the correct value for the purpose of determining municipal valuation and establishing the correct tax rate. It's an administrative nightmare.

The BETR and BETE programs are already so hyper-complicated they cannot be easily explained even by experts, and the explanations the experts are able to provide are lost on the general public. Tax exemption systems should not be so complicated that they cannot be explained to the taxpaying public. The Task Force recommendation will make the administration of these programs on the local level more difficult and more prone to administrative mistakes. Municipal officials across the state are totally frustrated with having to raise taxes to comply with the unfunded mandates passed down by the Legislature. This Task Force recommendation provides a good example.

— Respectfully Submitted by
Raphael E. St. Pierre, III, Assistant City Manager, Augusta

state savings that Part K was estimated to deliver, the reimbursement rates to the businesses in the BETR program were reduced in the finally enacted state budget by 10 percent in the current fiscal year (FY 14) and 20 percent in FY 15. The Task Force was also created.

From the municipal perspective, there is a conspicuous narrowness to the task given this working group. The “charge” is not to determine whether exempting about \$3 billion of taxable property is a good idea or not. The task is to recommend the mechanics of exempting \$3 billion of taxable property, whether it’s a good idea or not. The idea is most certainly not a good idea for Maine’s towns and cities and represents yet another example of the state changing the rules of the game to the disadvantage of local government.

The Task Force met five times between Oct. 7 and Nov. 27. A majority of the Task Force voted to support a recommendation comprised of five elements. The municipal member of the Task Force filed one minority report. A business member of the

Task Force filed a different minority report.

Majority recommendation. The core recommendation of the majority report of the Task Force is that all of the property in the BETR program should become 25 percent tax exempt in 2015, with that 25 percent transitioned to the Business Equipment Tax Exemption (BETE) program. In 2016, 50% of the property would be in BETR and 50 percent in BETE. In 2017, 75 percent of the property would be in BETE and 25 percent in BETR, and by 2018 all BETR property would be entirely exempt and in the BETE program. In an attempt to address the negative municipal impacts associated with exempting large amounts of property from taxation over a three year period, the majority recommendation includes the following four sub-proposals:

- There would be a special rate of municipal reimbursement under the BETE program for the property transitioning into BETE from BETR. For that transitioned property only, the reimbursement rate would be 80% in the first year of transition, 70% in the

second year of transition, 60% in the third year of transition, and 50% in the fourth year and thereafter. If the municipality has an enhanced rate of BETE reimbursement, the enhanced rate would apply.

- For those municipalities experiencing a loss in value due to this BETR to BETE transitioning, the law governing which municipal state valuation applies for the purpose of determining a municipality’s school subsidy would be amended. For those communities, instead of whatever state valuation would otherwise be used for the purpose, the most immediately determined state valuation would apply because it would be lower and therefore attract more school subsidy.

- The “sudden and severe disruption” law would be amended to allow municipalities to apply for an expedited reduction in state valuation if they experience a year-to-year loss in value associated with the BETR to BETE transition that equaled 2 percent or more of their total valuation.

- And, the conversion to exempt status would not apply to personal

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property enrolled in the BETR program that is located in a municipal Tax Increment Financing (TIF) district. That property would not convert to BETE status until the TIF agreement expires, at which time conversion to BETE status would occur automatically.

The municipal representative on the Task Force submitted a minority report dissenting from the majority's recommendation. The minority report is found as a sidebar to this article on page 9.

MANDATE WORKING GROUP

The Mandate Working Group, established in Part WW of the state budget, is the red-headed step child of all the Task Forces established in the state budget. It was not charged with anything attention-grabbing like sifting through a few billion dollars worth of tax expenditures to find a cool forty million for the state's General Fund. Television cameras were never set up in the committee rooms where the Working Group met. It is not even clear where the impetus for establishing this task force came from

in the context of negotiating the state budget except that Republican leadership, particularly in the Senate, was expressing interest in giving municipal mandates a rigorous review.

However it transpired, the task given to the Working Group was entirely welcome and undertaken with some gusto. The Working Group got off to a late start, met four times between Nov. 4 and Dec. 2, 2013, and is in the process of assembling a report that includes over 25 separate recommendations, including two broad recommendations that cross all mandate categorical boundaries, and two-dozen specific recommendations to repeal or redesign mandates that are currently on the books. Here's a sampling of what will be in the final report:

- **Establish the State-Local Intergovernmental Working Group.** Leading to one of the recommendations that crosses all categorical boundaries, the Working Group identified a variety of mandate-related concerns that could be resolved or partially resolved if there was a formal opportunity to have conversations between

a group of municipal officials, the appropriate policy-level state agency personnel, and the Commissioner of the Department of Administrative and Financial Services. Specific examples of those "State-Local Intergovernmental Working Group" conversations include:

- Department of Administrative and Financial Services.
 - o Assessing mandates, "appraisal report" standards, assessor training.
- Department of Agriculture, Conservation and Forestry.
 - o Comprehensive plan "consistency" standards.
- Department of Environmental Protection.
 - o Perceived subjective application of environmental standards by DEP personnel in the field.
 - o Recycling report requirements - frustrating, inaccurate and probably ignored.
 - o Circumstances of state-imposed Site Law standards inhibiting proposed development.
- Department of Transportation
 - o The changing cost-share obligations to repair state aid roads.

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Within the various categories of administrative mandates, the Working Group made an array of recommendations, including:

- **New assessing mandate.** The Legislature should revisit a very expensive unfunded state mandate enacted in 2013, requiring municipalities to prepare certain appraisal reports for large industrial properties, each of which could cost hundreds of thousands of dollars.

- **Cemetery maintenance.** The Legislature should also revisit an extremely expensive unfunded state mandate, also enacted in 2013, regarding the maintenance of veterans' graves. That law opened municipalities up to 100% maintenance of cemeteries that were never a municipal responsibility before. It also made the municipalities fully responsible for the repair and maintenance of grave-stones, even restoring their lettering. All of this without a penny of state financial assistance. The recommendation is to rewrite the mandate enacted in 2013 to require the municipalities, in collaboration with veterans' orga-

nizations, cemetery associations, civic groups and other interested parties, to achieve reasonable cemetery maintenance standards.

- **Notification mandate.** The Legislature should modify the highly redundant and administratively burdensome requirements in the Tree Growth law notifying landowners several times over that they are non-compliant with their responsibilities.

- **Large-scale "Right to Know" requests.** The Legislature should address the "who pays" question under Maine's Freedom of Access Act (or "Right to Know" law) with respect to large-scale requests for public documents that take up many hours of municipal administration without anywhere near appropriate compensation from the requestor.

- **Fees.** The permitting/licensing fees imposed by the DEP should be waived for municipal governments on the principle that the towns and cities are effectively acting as agents of the state, particularly for all programs and activities that are mandated by federal or state law or directly associ-

ated with economic development.

- **Federal standards.** All state law and regulation adopted to comply with federal environmental mandates should be written to meet but not exceed federal minimum requirements.

- **Firefighter cancer presumption.** The Legislature should review the cancer presumption mandate in Workers' Compensation law enacted five years ago, review the testimony provided at that time asserting no negative financial impact on the municipalities, recognize the significant financial impacts the municipalities are now incurring in defense costs and to be incurred in the future, recognize the law as a state mandate, clarify the law's prospective application and review more carefully the scientific record regarding the relationship between firefighting and some of the cancers now identified presumptively as workplace injuries.

- **Quality assurance protocols in PSAPs.** Without identifying the law as a state mandate, the Legislature now requires certain protocols to be followed by Public Safety Answering

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Points with respect to emergency medical communications. The protocols require additional staff and training hours and the law establishing the requirement is another unrecognized state mandate. The Working Group recommendation is that the costs associated with these training requirements be covered by the revenue generated by the surcharge established on all landline and cell phone telephone accounts.

• **Licensing and permitting.** There are numerous archaic laws mandating that municipalities license or permit a range of business activities that should all be repealed and reassembled under a generic home rule authority statute.

These recommendations represent just a sampling from the slate of proposals in the Working Group's final report. Because a separate working group was established by the Legislature to review education-based mandates (Resolves 2013, chap. 74), this Working Group did not rigorously review the wide range of state mandates that drive up the cost of K-12 education. Due to the extraordinary "crowd-out" pressure local spending for the schools places on the overall "municipal" budget, the other working group's report on the school-related mandates, which is not due to be released until mid-January 2014, will need to be reviewed with great care and a critical eye.

COMMISSION TO STUDY STATE BOARD OF CORRECTIONS AND UNIFIED COUNTY CORRECTIONS SYSTEM

In order to address increasing county jail costs, limited jail and prison bed space and a need to provide a more streamlined and financially sustainable corrections system, state and county officials spent countless hours five years ago developing the unified state-county corrections system that is in effect today. In addition to capping the property tax exposure to county jail cost at \$62 million each year, the legislation created the Board of Corrections (BOC), represented by county, municipal and state officials, and charged it with overseeing the unified system.

As might be expected, over the last five years the unified system has expe-

rienced its share of ups and downs. Some counties have complied with all BOC policies and standards, while others have not. Some counties have accepted their reassigned responsibilities, while others have been less accepting. Some counties have worked with the new unified budgeting procedures, while others have not.

It is clear, particularly to those directly involved with day-to-day operations of the unified corrections system that the process is at a crossroads and needs to be either amended to allow the existing system to work or be replaced with an entirely new process. At the request of the impacted county officials, the Legislature created the 13-member Commission to Study the State Board of Corrections and the Unified County Corrections System. The Commission is charged with reviewing the existing system and recommending changes to make the delivery and financing of correctional services more efficient.

During the course of five meetings, the Commission explored the strengths and weaknesses of four potential solutions. Those proposals included: (1) a state level take-over of the entire corrections system; (2) the creation of regional jail authorities, designed to support the efforts of the BOC; (3) capping the state's financial exposure to the corrections system by increasing the property tax liability for county jail related costs; and (4) increasing BOC authority.

At its final meeting, the Commis-

sion voted to support a proposal that preserves the existing framework, but provides the BOC greater authority to achieve its goals. Under this approach, the BOC is provided the authority necessary to set standards, enforce policies, approve budgets, demand the implementation of strategies to gain program and operational efficiencies, enter into contracts on behalf of counties that achieve administrative and program cost savings, and provide back office support when requested by the county administrators. To provide the Board with the assistance and expertise necessary to accomplish its goals, the Commission recommended strengthening the role of the Board's executive director.

The Commission's final report also includes a recommended strategy for encouraging the state to honor its commitment to fund future capital needs, as currently required by the unified system's so-called "inverse debt" provision. Under existing law, for every dollar in county jail related debt retired, the state is required to appropriate a dollar for the unified system's capital improvement fund, ensuring that at least \$10 million in capital improvement funds are available at all times. It will not be shocking for municipal officials to learn that the Legislature has not honored this commitment.

The Commission's report will be submitted to the Criminal Justice and Public Safety and Appropriations Committees for further review and consideration. [ml](#)

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Welcome to the Maine Resource Recovery Association

MRRA was formed with the intent to foster professional solid waste management practices in the recycling and solid waste arena.

MRRA is committed to the development of environmentally sound solid waste practices and other forms of resource recovery that will benefit Maine communities.

Some of the goals of the organization are as follows:

- Facilitate communication between Association members, recycling markets, equipment suppliers, State and Federal government, and national associations, as well as information exchange among members.
- Assist with the marketing of recyclable and reusable materials.
- Compiling information relevant to the education and technical needs of Maine recycling programs.
- Promoting market development and providing cooperative marketing opportunities.

The September 2013 issue of The Scrap Paper, MRRA's newsletter, is now available for download:

<http://www.mrra.net/wp-content/uploads/2013-September-Scrap-Paper.pdf>

Our Mission

The Purpose of Maine Resource Recovery Association is:

- To foster professional solid waste management practices;
- To further the development of recycling and other forms of resource recovery as cost-effective components of environmentally sound solid waste management in Maine communities; and
- To assist with the marketing of recyclable and reusable materials.

The Goals of the Association

- Promoting communication and information exchange between Association members and markets, equipment suppliers, State and Federal Government, and other State and national associations, as well as information exchange among members.
- Compiling and development of other information relevant to the education and technical assistance of Maine solid waste management and recovery programs.
- Promoting market development and providing cooperative marketing opportunities.

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Update on Other Studies and Carryover Bills

By Kate Dufour, Senior Legislative Advocate,
State & Federal Relations, MMA

As reported in the July 2013 edition of the *Maine Townsman*, the Legislature postponed making decisions on several issues of municipal interest. Those bills were either carried over into the second session to provide study groups and task forces the time necessary to formulate recommendations, or the cooling off period necessary to determine if the proposed legislation is necessary or palatable.

It is expected that decisions on all carry over bills will be the first priority when the Legislature reconvenes, with some legislative committees scheduled to make all final decisions on these bills no later than January 31, 2014.

The legislative preview article focuses on five front-and-center task force initiatives, four of which were established in the controversial state budget enacted in June. What follows below are updates on other municipally significant carry over bills for which there is information to report.

Dig Safe. In 2011 and 2012, two working groups examined the existing system to protect underground utilities when excavation occurs on municipal rights of way. That system, governed by Maine's Protection of Underground Facilities Law, requires would-be excavators (construction, utility, telecommunications workers, etc.) to notify potentially affected underground facility operators prior to excavation. Publicly-owned utilities (municipalities, water and sewer utilities) are currently exempt from the law; they may voluntarily join either the underground facility damage prevention systems known as "Dig Safe" or "OK-to-DIG" but are not mandated to. The for-profit utilities have been pushing for mandatory municipal

membership in Dig Safe through the working group processes over the last two years.

LD 965 would require the Public Utilities Commission (PUC) to maintain its "OK-to-DIG" database while mandating currently exempt underground facility operators to register their facilities with the PUC, provide the Commission with updated 24-hour contact information (to be used for notifications regarding excavations), and mark the location of their facilities when notified of an intention to excavate in the right of ways within their jurisdictions. MMA's Legislative Policy Committee voted to oppose LD 965 at its meeting in March 2013.

The proponents of mandatory municipal membership in Dig Safe plan to offer an amendment to replace the printed bill. The new version would mandate that municipalities and public water utilities join the "Dig Safe" system. Offered as sweeteners to ease the mandate, the initial membership fees would be \$1 per excavation "ticket," and the administrative financial penalties would be waived for the municipalities for about a year.

Emergency Call Quality. Sponsored on behalf of MMA by Rep. Roberta Beavers of South Berwick, LD 196 directs the PUC to fund the existing E-911 medically related call quality assurance program with non-municipal resources or assessments. The quality assurance program mandates that on a monthly basis a sampling of the medically related emergency calls received by PSAP's (public safety answering points) are reviewed, assessed and ranked for quality. The provision of this mandated assessment protocol costs the property taxpayers nearly \$500,000 each year. The legislation

establishing this obligation was enacted without being identified as a state mandate.

Two bills on this subject were carried over into the 2014 session. LD 196 and a related bill, LD 275, which proposes to extend the existing medically related call quality assurance program to police and fire calls, but with appropriate state funding. The reason the bills were carried over was to provide the PUC the time necessary to study the issue further. The PUC was tasked by the members of the Legislature's Energy, Utilities and Technology (EUT) Committee with exploring the feasibility of conducting an all inclusive (medical, fire and police call) quality assurance program pilot. The pilot would be designed to determine: (1) what efficiencies could be gained if the program was expanded; (2) the impact on quality of services; (3) the cost of providing the program, both with regard to initial and recurring costs, and (4) the funding options available to implement and support the statewide program. The PUC has been directed to report its findings to the EUT Committee on an unspecified date in January 2014.

Discontinued Roads. LD 1177 proposes to radically amend the existing road discontinuance and abandonment laws. The bill included extremely expensive unfunded state mandates and turned established public policy that has been in place for 50 years on its head. The bill drew sharp opposition from the municipal community. As a result, four members of Legislature's State and Local Government Committee were charged with exploring the existing laws and making recommendations for changing discontinuance and abandonment

practices, if deemed necessary.

Since September, Sen. Colleen Lachowicz (Kennebec County) and Reps. Andrea Boland (Sanford), Michael Nadeau (Fort Kent) and Jethro Pease (Morrill) have met twice to gather information from road law experts and representatives of small woodlot owners, logging industries and utility interests. At its third and final meeting, scheduled for Dec. 13, the Subcommittee will hear from municipal officials. Considering that the Subcommittee is still in an information gathering stage, it is very difficult to determine the nature of the recommendations that will be forwarded to the full State and Local Government Committee for consideration. Updated information about the Subcommittee's efforts will be published in the January editions of the Legislative Bulletin.

Broadband Deployment. As provided in LD 876, the ConnectME Broadband Authority has been directed to convene a working group for the purpose of facilitating the deployment of broadband conduit for fiber-optic communications. At its first meeting held on Nov. 14, the members of the Working Group identified eight areas that need further exploration, the most municipally significant being interactions with managers of rights-of-way. Although the right-of-way management issue was raised, it was not fully explored or discussed. With the exception of addressing potential right-of-way issues, it appears that the crux of the Working Group's efforts will focus on developing recommendations ensuring that broadband service providers are treated fairly in the process of placing necessary infrastructure both in the ground and on utility poles.

The next Working Group meetings are scheduled for Dec. 12, 2013 and Jan. 9, 2014.

Solid Waste Disposal Fees. According to the Solid Waste Management Hierarchy adopted by the Maine Legislature, Maine should prioritize reusing and recycling waste materials before disposing of it in landfills. Supporters of LD 1483 are concerned this hierarchy is at risk due to a looming increase in electricity costs for waste-to-energy facilities. These proponents say the bill would "level the playing field" between solid waste landfill

operations and solid waste-to-energy operations in our state by imposing a surcharge (\$14/ton by 2017) on the tipping fee paid on solid waste sent to landfills. That money would be held in an account by the Maine Department of Environmental Protection, with the funds redistributed to qualifying municipalities and recycling/composting programs. For a municipality to qualify to receive money from the fund, it would have to show that its solid waste is being processed by a bona fide waste-to-energy processing facility. The bill contains the reimbursement formula, which must provide a minimum financial reimbursement of \$30/ton to the qualifying municipalities.

Bond bills. During the 2013 legislative session, MMA closely tracked four bills seeking bonds for transportation, water, wastewater and stormwater infrastructure and economic develop-

ment purposes. One of those bills, LD 16, sponsored by Rep. Ann Peoples of Westbrook on behalf of MMA, proposed a \$100 million transportation bond package. On Aug. 29 of this year the Legislature reconvened during a special session to approve five bond questions that were ultimately supported by the voters on Nov. 5, one of which included \$100 million for transportation purposes. Some 213 bills from the 2013 legislative session are being carried over and will be on the table for consideration in January. 28 of those bills are bond proposals, which were carried over as a block. With the bond package that was approved by the Legislature in August and then the voters in November, it is now perhaps unlikely and certainly unclear if there is any remaining appetite to advance borrowing initiatives in 2014. [\[mc\]](#)

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NEW BILLS

By Garrett Corbin, Legislative Advocate,
State & Federal Relations, MMA

In the second legislative session, new bills (as opposed to bills carried over from the first session) are only supposed to be admitted if they address an emergency issue. Two years ago the Legislative Council admitted 132 of the 288 bills submitted for consideration. This acceptance rate of 46 percent was whittled down to just 33 percent this year, with the Council accepting 128 of the 395 bills submitted. Votes on eleven of the submitted bills have been tabled until the Council's next meeting on Dec. 19.

At the moment, only bill titles and brief descriptions are available. On the basis of that information, it appears about two dozen of the 128 admitted bills propose changes that would impact Maine's towns and cities significantly enough to trigger a review by MMA's 70-member Legislative Policy Committee for the purpose of identifying the Association's position on the legislation. Even so, a majority of these newly introduced bills would appear to have only a modest direct municipal impact. There are no earthshaking proposals. We have yet to see the Governor's proposals, which can be submitted for legislative consideration at any time.

Bills with the potential to impact municipalities in a consequential way include:

Property Tax-related:

- *An Act To Reinstate Legislative Approval for Local Property Tax Assistance Programs*, sponsored by Rep. Carey of Lewiston. When the state budget was enacted last June, the statewide Circuitbreaker property tax relief program was terminated and replaced with the less generous "property tax fairness credit" within the state income tax code. In the same budgetary language that terminated the state's Circuitbreaker program, the statutory authority to establish locally-funded property tax relief programs was also terminated. The termination of local authority to implement relief programs was apparently unintentional. Rep. Carey's bill restores the municipal authority to establish such assistance programs.
- *An Act To Provide Property Tax Relief to Maine Residents*, sponsored by Speaker Eves of North Berwick. This legislation uses surplus General Fund revenue to increase the level of tax benefits provided to lower income Mainers through the newly-created "property tax fairness credit," which replaced the Circuitbreaker program. Another proposal, *An Act To Restore Revenue Sharing Funds*, sponsored by Rep. Rotundo of Lewiston, would have similarly targeted surplus General Fund revenue (which was made available to the state because of previous deep raids on the municipal revenue sharing program) to partially restore the even deeper revenue sharing cuts enacted by the Legislature this spring. Rep. Rotundo's bill was not admitted by the Legislative Council in a close 5-5 vote.

- *An Act To Amend the Reporting Requirements for the Business Equipment Tax Exemption*, sponsored by Sen. Haskell of Cumberland Cty. This bill, advanced on behalf of large industrial and commercial property taxpayers, repeals the recently enacted requirements that the largest taxpayers must provide income and expense information with respect to their facilities to the municipal assessor each year when they apply to the BETE program for their personal property exemption.
- *An Act To Provide Property Tax Relief to Seniors Residing in Maine*, sponsored by Sen. Dutremble of York Cty. The written description of this bill says that it freezes senior citizens' property tax assessments at the level when the senior citizens become eligible for property tax relief. Any subsequent increases in the property's valuation would become exempt from taxation.
- *An Act To Reflect the Replacement of the Circuitbreaker Program in Poverty Abatement Law*, sponsored by Sen. Saviello of Franklin Cty. As already discussed, when the Legislature terminated the Circuitbreaker property tax relief program in the budget bill enacted earlier this year, very little attention was paid to other parts of Maine law that interact with that program. This bill repairs a disconnect that was inadvertently created between the local poverty abatement program and the now-terminated Circuitbreaker program. Specifically, the bill allows the municipal officers to consider a cash benefit received through the "property tax fairness credit" when a person is applying for a poverty abatement, just as the law allowed for that consideration with respect to Circuitbreaker benefits.
- *An Act To Allow a Municipality To Assess the Value of Real Property as of the Date of the Destruction of That Real Property*, sponsored by Rep. Cooper of Yarmouth. This bill allows a municipality to assess the value of real property as of the date of the destruction of buildings when the destruction occurs after the April 1 universal date of assessment if the buildings destroyed are valued at \$500,000 or more.
- *An Act To Help Joint Owners of Property Remain in Their Homes by Providing a Property Tax Exemption*, sponsored by Rep. Harlow of Portland. This bill provides a property tax exemption to one joint owner of a residence when the other joint owner is placed in a long-term residential care facility permanently or receives home care.

Public Works-related:

- *An Act To Fund the Maintenance of Veterans' Grave Sites*, sponsored by Sen. Johnson of Lincoln Cty. Municipal responsibilities regarding veterans' graves were amended in two significant ways last session. First, municipalities became responsible for maintaining all graves located in ancient burying grounds (defined as cemeteries established before 1880), whereas municipalities were previously only responsible for maintaining veterans'

graves within those burial grounds. Second, municipal maintenance responsibilities were amended to not only beef up mowing and debris removal requirements, but to also hold municipalities responsible for the management of grave stones, including inscription legibility. MMA's understanding is that this bill would amend the law to require the municipalities, in collaboration with veterans' organizations, cemetery associations, civic groups and other interested parties, to achieve cemetery maintenance standards as adopted by the municipalities by ordinance.

Public safety-related:

- *An Act To Amend the Laws Governing Firefighter Absence for Emergency Response*, sponsored by Rep. Parry of Arundel. It is not entirely clear what this bill would do. As described in the documents provided to the Legislative Council, current law prohibits an employer from discharging employees who miss work because they are responding to a fire in their separate capacity as a volunteer firefighter. This bill amends the definition of "firefighter" to include a member of a municipal fire department.
- *An Act To Allow Local Health Inspectors To Inspect Restaurants and Other Licensed Establishments*, sponsored by Rep. Cooper of Yarmouth. This legislation requires the state health inspection program in the Department of Health and Human Services to include a program to train local health inspectors to perform limited inspections of restaurants and other licensed establishments for health and safety violations. Local health officers who have completed this training would have the authority to order the immediate and temporary closing of an establishment when health and safety violations pose an imminent threat to the public.

Utilities-related:

- *An Act To Require a Timely Response by a Gas Company to a Municipal Request for Service Expansion*, sponsored by Sen. Gratwick of Penobscot Cty. This proposal establishes time frames within which a gas company must respond to a municipal request for service expansion.

Other bills of municipal interest:

- *An Act To Amend the Law Governing the Collection of Minor Amounts of Property Taxes*, sponsored by Rep. Welsh of Rockport;
- *An Act To Extend the Veterans' Property Tax Exemption to Veterans Who Served in Iraq or Afghanistan*, sponsored by Rep. Fowle of Vassalboro;
- *An Act To Increase the Amount of Funds Available to Counties for Witness Fees and Prosecution Costs*, sponsored by Rep. Willette of Mapleton;
- *Resolve, To Study the Ability of Dispatchers To Transfer E-9-1-1 Calls to Emergency Responders in Another State*, sponsored by Sen. Flood of Kennebec Cty;
- *An Act To Clarify the School Budget Development Process in Certain Charter Municipalities*, sponsored by Sen. Gratwick of Penobscot Cty;
- *An Act To Create the Newport Natural Gas District*, sponsored by Rep. Fredette of Newport;
- *An Act To Enhance the Sustainability of the Corinna Water District*, sponsored by Rep. Fredette of Newport;
- *An Act To Reduce the Number of Members on the Stonington Sanitary District Board*, sponsored by Rep. Kumiega of Deer Isle; and
- *An Act To Amend the Charter of the Anson and Madison Water District*, sponsored by Rep. Dunphy of Embden. [\[m\]](#)

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Surveys & More Surveys: Thanks for Participating

By Kate Dufour, Senior Legislative Advocate,
State & Federal Relations, MMA

In the course of any given year, MMA sends out a dozen or more surveys asking for feedback, information and data from municipal officials on a variety of issues. Some of the surveys are easily completed with a simple yes or no answer, while others are more involved, requiring an hour or two of research and input from many different municipal employees.

The data provided throughout the year helps MMA's State and Federal Relations Department staff better advocate for the interests of local government before the Maine Legislature, as well as frame the issues presented to Maine's Congressional Delegation in the Federal Issues Paper, printed in late February.

Armed with the data you have provided over the last year, MMA was able to provide a wide variety of up-to-date, municipally relevant information to policy makers, including:

- Municipalities, in the aggregate, stayed within the LD 1 property tax levy limit.
- There is a direct correlation between property tax increases and sharp reductions in municipal revenue sharing.
- Towns and cities continued to provide a variety of service in the face of unprecedented cuts in state aid, many of which are provided on behalf of the state (e.g., motor vehicle registrations, elections, sales of hunting and fishing licenses, shoreland zoning, subdivision review, etc.).
- The road discontinuation process is often conducted on behalf of the affected property owners.
- Maine communities, although not universally, are experiencing noticeable losses in property value due to bank foreclosures.

- And, one out of five Maine towns and cities have received large scale requests for public records over the last three year period involving many hours of staff time in response, costing the taxpayers much more than the requesters may be charged under law.

What follows are synopses of the results from six surveys conducted in 2013. If you would like more detailed reports on any of these surveys, please feel free to contact Kate Dufour at kdufour@memun.org or at 1-800-452-8786.

Although the "we couldn't have done it without out you" colloquialism is often overused, it aptly and genuinely describes our appreciation for your time and efforts. Thank you very much for your participation in these surveys.

Property Tax Commitment Increases. In mid-September, municipal officials statewide were emailed a survey asking whether or not the community had experienced increases in property tax assessments between 2012 and 2013 as a result of the recent and expanded reduction in state financial support of local government. Approximately 60 percent of the 86 respondents stated that they had experienced property tax increases this year. Property taxes increased by 6.3% on average among those municipalities experiencing increases. Within that group, communities with populations of 5,000 or greater experienced average increases of 5.0 percent, while communities

with populations under 5,000 experienced average property tax assessment increases of 6.8 percent.

Road Discontinuance and Abandonment. In late October, municipal officials were asked to respond to a road discontinuance and abandonment related survey. The survey was conducted on behalf of a subcommittee of the State and Local Government Committee tasked with determining if the existing laws needed to be repealed, replaced or left alone. A description of the Subcommittee's efforts is described in the "Carryover" article published in this edition of the Maine Townsman.

The survey results show that nearly two-thirds of the responding communities have not discontinued a road in the last 10 years. Of those who did, 36 percent stated that a road was discontinued because it was infrequently used, in some cases functioning as an extension of a driveway for an abutter. Interestingly, 11% of the respondents indicated that the road was discontinued

at the request of an abutter. When asked if the public easement should be automatically retained when a road is discontinued, 75 percent responded that full (41%) or a partial (24%) easement should be retained.

Foreclosures. In an effort to provide information to assist in a foreclosed property study being conducted by Maine Attorney General's Office, municipal officials were asked to



describe how foreclosed properties were impacting their municipalities. Fifty-nine percent of the 63 responding municipalities indicated that these often-abandoned properties were having negative impacts on municipalities, the most common problem being loss of property value and tax revenue. When asked about experiences dealing with banks involved in the foreclosure process, 62% of the municipalities experiencing foreclosure-related issues stated that it was frustrating to deal with a bank or difficult to connect with the right financial institution or person within the bank.

LD 1 Tax Levy Limit. Every year municipal officials are asked to report back on their experiences with the LD 1 property tax levy limit. The law, enacted in 2005, requires all levels of governments to determine if the growth in tax dollars needed to fund governmental services is within or exceeds the calculated growth allowance.

In 2012, and for the eighth year in a row, the aggregated results show that municipalities stayed within the property tax levy limit. Although in 2012 the participating communities had an

average allowable tax levy limit of \$2.1 million, the property tax dollars raised to fund local government services was \$1.9 million. Communities with populations of 5,000 or greater raised on average \$7.7 million in property tax dollars, nearly \$800,000 less than the allowable growth of \$8.5 million. Communities with populations under 5,000 also stayed within the limit, assessing on average \$620,000 of the average \$663,000 levy limit. Although municipalities of all sizes and geographical locations generally were able to stay within the LD 1 limits, that task was more difficult for some communities. For a variety of different reasons, including the level of capital reserves the community had when the levy limit system was first established, the municipality's governance structure and budget adoption procedures, and the mix of taxable properties in the town or city's tax base (e.g., residential, commercial, and industrial), some communities struggle under the levy limit system, putting them one boiler malfunction or plow truck breakdown away from exceeding their limit.

Right to Know Requests. At the re-

quest of the Right to Know Advisory Committee, MMA polled municipal officials about their experiences with large-scale Freedom of Access Act (FOAA) requests. Of the 93 responding municipalities, 20 municipalities (22%) reported that they have responded to frequent and/or large scale FOAA requests over the last three-year period. The volume, vagueness/overbreadth of the request, and the lack of staff time to deal with the requests, were most commonly mentioned as the reasons why municipalities are frustrated by the lack of responsibility placed on the requestors to adequately compensate for the public costs of responding.

Fiscal Survey. Based on the information provided by the 174 municipalities participating in the 2012 *Local Government Fiscal* survey, it is estimated that property tax revenue provided 76% of the \$2.5 billion in municipally generated revenue. When motor vehicle excise taxes are included, which were formerly levied as a property tax, \$2.13 billion in property/excise tax revenue was collected, representing 83.5% of all locally generated revenue. [\[inf\]](#)

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Borrowing, Projects Decided By Voters

By Liz Chapman Mockler

School district withdrawals and major project funding were common themes in municipal elections Nov. 5, while Portland voters made history by approving a referendum to allow adults to possess marijuana for recreational use.

In many cities and towns, voters also decided municipal ordinances covering everything from charter changes to land use to mobile home parks. There were a number of local finance referendums as well, asking voters to approve school and municipal projects – with mixed results.

Statewide, voters endorsed all five state bond questions totaling \$149.5 million, including \$100 million for roads and infrastructure. The transportation bond will be matched with \$154 million in federal and other funding and also will target ports, harbors, freight and passenger trains and aviation projects.

“We were very happy with (the transportation bond) vote,” Peter Nielsen, Maine Municipal Association president, said recently. “I think voters recognize the importance of this work as well.

“We were of the view... that infrastructure was going to suffer if it did not pass,” he said. “This is an excellent down payment that I think most municipal officials would support.”

Nielsen said the vote delaying road and other infrastructure work only costs municipalities more in the future. “A road that costs \$1 million today to repair could cost \$2 million later as it continues to crumble,” he said.

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

LOCAL QUESTIONS

The largest bond approved locally occurred in the towns of Durham, Freeport and Pownal, where voters from each town endorsed a \$14.6 million project to renovate Freeport High School, which serves the towns comprising RSU 5. The victory was gained by less than two percentage points, 51 percent to 49 percent.

However, voters rejected a long-standing desire to lay artificial turf at the high school track and field facilities. Voters opposed the \$1.7 million bond question by a 61 percent to 39 percent margin.

Meanwhile, in a show of voter muscle in Boothbay, residents defeated all four local referendum questions, including a \$4.7 million tax increment financing proposal to help expand

Boothbay Harbor Country Club.

Despite its name, the golf course is located in Boothbay and the new owner said he plans to proceed with a major expansion project despite the TIF outcome.

Voters also rejected a \$2.5 million bond proposal for the Boothbay Village Improvement Project, which would have focused on upgrading infrastructure.

Voters also didn't like allowing commercial boat-building businesses to be considered home businesses – one of more than 30 changes proposed by the planning board in one long referendum.

In a related question, voters defeated a citizen-initiated referendum to allow boat building and repairs in residential areas. That question fared

PORTLAND MARIJUANA ORDINANCE

The ordinance legalizes possession of up to 2.5 ounces of marijuana by adults age 21 and older within city limits. It does not legalize the sale or purchase of marijuana, but allows anyone 21 or older to “engage in activities for the purposes of ascertaining the possession of marijuana and paraphernalia.”

It prohibits recreational use of marijuana in public spaces, on school grounds or on transportation infrastructure, and lets landlords prohibit tenants from using marijuana on their property.

Current State Law

Possession of up to 2.5 ounces of marijuana is a civil, not a criminal, offense. Offenders are issued a civil citation for possessing up to 1.25 ounces of marijuana, which carries fines of \$350 to \$600. Possession of 1.25 ounces to 2.5 ounces is a civil violation carrying fines of \$700 to \$1,000.

Criminal charges may be brought if the marijuana is packaged for sale or furnished to another person. Portland Police Chief Michael Sauschuck put it this way: If you smoke a joint, it's a civil violation; if you pass it to the person next to you, it's a criminal violation for furnishing; and if that person pays for the joint, it's a criminal charge for selling marijuana.

– Source: Maine Today Media

the best, even in defeat, since it lost by 57 votes compared to 100 to 200 votes that separated the other referendums voting results.

The voters' rejection might be linked to fears by residents that their quintessential Maine coastal town could be changed in ways that would affect quality of life.

"We have a lot of natural beauty and small-town charm; a lot of open space and small villages," Boothbay Manager James Chaousis III said. "I think they thought that was in jeopardy."

Selectmen are surveying residents about why they rejected the proposals and how the board might develop proposals that could win voter support.

"It's been up on our website for one day and already we've had 75 respondents," Chaousis said. "Obviously, these are (questions) people are passionate about."

VOTING TO LEAVE

Many cities and towns voted to walk away from the Regional School Units that were created under the 2009 Baldacci administration law to consolidate schools and potentially reduce costs for administration and debt.

From the start, the law was controversial and complicated. Many changes have been made to the original law to help communities adapt and form new partnerships. Now, towns of all sizes are withdrawing, in part out of financial concerns and the desire to restore more local control over local education.

Currently, voters can withdraw their community from an RSU after it has been a member for at least three years. Once the withdrawal vote is official, municipalities have two years to develop alternate consolidation plans, including new school boards, or face potential penalties from the state.

Among the cities and towns that voted to withdraw during Nov. 5 voting: Saco, Wiscasset, Ellsworth, Lamoine and Hancock, continuing a trend that began as soon as the three-year mark was breached. Voters in Sumner voted against withdrawing from RSU 10 by a margin of, 113-74.

In Wiscasset, residents voted 613-280 to leave RSU 12, although high school students from other RSU towns (Chelsea, Palermo, Windsor and

Whitefield) will be able to attend Wiscasset High School if they desire.

Some town officials were startled by the wide gap in the vote, expecting a closer decision.

The town plans to withdraw by July 1, 2014, giving it little time to elect a school board, find a superintendent, pass a budget and get their schools ready to go it alone.

In Saco, the vote to withdraw was overwhelming: 2,996-977. The city will leave behind Old Orchard Beach and Dayton once it withdraws formally.

MARIJUANA VOTE

In one of the most closely-watched ballot initiatives, broadcasted nationally, was passage of a citizen-initiated referendum to legalize the recreational use of marijuana in Maine's largest city. The measure passed easily, by a 2-to-1 margin. The tally was 9,921 to 4,823.

The ordinance took effect Dec. 6, but police have said they will continue enforcing the state ban on use of the drug.

Other American cities passed similar local laws as momentum builds to legalize marijuana nationwide. Portland is the first city in the Northeast to pass an ordinance; it allows adults over the age of 21 to possess up to 2.5 ounces.

Advocates think Maine could become the first state in New England to join Colorado and Washington in decriminalizing marijuana. The federal government has announced it will not pursue recreational users, despite the national law.

Other referendum questions decided Nov. 5:

Harpwell: Voters decided to spend \$85,000 to buy waterfront property for public access. The vote passed with 71 percent support. The parcel abuts the

town's Lookout Point town landing. Money will be taken from undesignated funds. Selectmen and residents are concerned about the dwindling amount of waterfront property still open to the public, not only in the island town but statewide.

China: Voters rejected spending \$575,000 to purchase The Cabins waterfront property for a public park and water access. The vote was 1,004 to 314. According to published reports, voters were concerned about borrowing money for the purchase, as well as redevelopment costs, ongoing maintenance costs and how to police the area.

Lisbon: Residents rejected two spending proposals and endorsed a third. They rejected buying an historic abandoned mill for \$1 million. The Worumbo mill, built in 1864, was used to manufacture luxury woolens until a fire forced its closure in 1987. If approved, the mill would have been used for economic development or a town park. The vote was 2,414-984.

Lisbon voters also didn't like a plan to spend \$1.75 million so the water department could build a water tank, nixing the idea on a vote of 1,238-1,942. They did endorse a bond issue for \$650,000 to replace 4,300 feet of water mains by a vote of 1,812-1,370.

Camden: Voters elected to borrow up to \$2 million for major renovations at the Camden Snow Bowl. The local money will be matched with \$4.5 million in private funding for new ski lifts, an expanded skiing area for novices, more and better parking and a larger lodge.

Peru: Residents agreed to use \$40,000 from a reserve account to hire an independent appraiser to conduct a town-wide property revaluation. The last total revaluation was done in 1999.

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November Means Election Season

By Liz Chapman Mockler

The following Nov. 5 municipal election results are based on published reports and interviews with town clerks. Uncontested races are not included, nor are the names of challengers unless they were appointed to fill vacated seats or did not seek re-election.

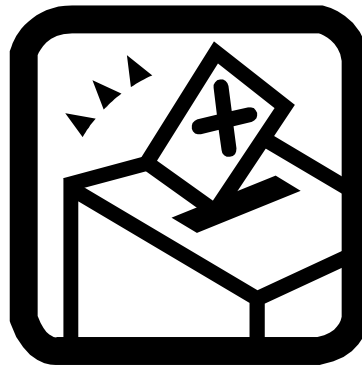
Auburn: Former city councilors Michael Farrell and Ronald Potvin were elected to the Auburn School Board. Farrell was unopposed for one of two at-large seats. Potvin defeated incumbent Francois Bussiere for the second seat. In winning the election, Potvin received 1,248 votes and also defeated former councilor Robert Mennealy, who won 1,236 votes. In city council races, all but one incumbent was re-elected. Newcomer Adam Lee defeated one challenger to win the Ward 4 seat by a vote of 421-141. In Ward 5, incumbent Leroy Walker received 71 percent of the vote, or 475 ballots, to defeat one challenger, who received 190 votes. In the at-large race, incumbents Belinda Gerry and David Young defeated three other candidates to keep their seats. Young was the biggest vote-getter in the at-large race with 1,497 votes; Gerry received 1,497 votes.

Augusta: Incumbent Cecil Munson easily won re-election with the most votes in all four city wards for a total of 2,216, or 40 percent. Former Maine State Housing Authority director Dale McCormick won the second contested race, picking up 1,558 votes, or 29 percent. Former Councilor Mary Mayo-Wescott received 667 votes, while a new challenger collected 997 votes. There were several uncontested council races.

Belfast: Walter Ash was re-elected mayor with 952 votes, besting two challengers for another two-year term. His closest challenger received 523 votes.

Biddeford: Incumbent Mayor and state Rep. Alan Casavant defeated former Mayor Joanne Twomey and former Councilor Perry Aberle by winning all seven wards of the city with 57 percent of the vote. In contested ward elections, 17 candidates vied for nine city council seats, with two incumbents, Ward 3 Councilor Bradley Cote and Ward 7 Councilor Michael Ready, unopposed in their races. Ward 1: Incumbent Michael Swanton defeated his challenger by a vote of 430-217. Ward 2: Incumbent David Bourque was defeated by former Councilor John McCurry by a vote of 209-150. McCurry had previously served four terms on the council. He also defeated a third candidate, who collected 35 votes. Ward 4: Two newcomers competed, with Robert Quattrone Jr. collecting 275 votes to his competitor's 247 votes. Ward 5: Incumbent Robert Mills held off a challenger to win by a vote of 237-189. Ward 6: Former Councilor Roger Hurtubise defeated Council President Rick Laverriere by a vote of 331-236. In at-large voting, both incumbents were replaced by two former councilors. Roch Angers and Richard Rhames were defeated by Marc Lessard and Clement Fleurent. Fleurent garnered 1,684 votes, while Lessard collected 1,408 votes.

Brewer: Incumbent Councilor and Mayor Kevin O'Connell received 893 votes and newcomer Bev Uhlenhake



garnered 557 votes to win the two open seats in a five-way race. Uhlenhake will replace Councilor Arthur "Archie" Verow, who did not seek re-election.

Brunswick: Jane Millett won the only contested town council race, defeating a challenger by a vote of 183-165. Newcomer

Steve Walker was uncontested for the District 2 seat.

Calais: Incumbent Councilor William Howard collected the most votes with 484 to win another term, while newcomer Marcia Rogers gathered 331 votes for the second open seat.

Cape Elizabeth: Incumbent Councilor Caitlin Jordan and newcomer Martha MacAuslan defeated a third candidate for two open three-year seats on the council. Jordan received 1,352 votes and MacAuslan collected 1,448 votes to win. Jordan eked out the win over the third candidate, who received 1,324 votes.

Caribou: In a race for two, three-year terms on the city council, incumbents David Martin collected the most votes with 713, followed by Joan Theriault, who had 700 votes. Planning Board member James Cerrato garnered 423 votes. Newcomer Shane Michael McDougall won a one-year term with 467 votes.

East Millinocket: In a seven-way race for two council seats, newcomer Kelley Michaud won 232 votes to replace Mark Scally, who did not seek re-election. Incumbent Mark Marston won the second seat with 176 votes.

Eliot: Voters elected six people to serve on the town's first charter com-

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mission. There were 11 candidates. The winners and vote counts were: Roland Fernald, 827; Rosanne Adams, 809; Edward Strong, 687; Gary Sinden, 673; Robert Fisher, 663; and, John Murphy, 646.

Fairfield: Richard LeTourneau and Aaron Rowden defeated incumbent Councilor Harold "Jim" Murray, with LeTourneau receiving 470 votes; Rowden 466; and Murray 384 to fill two council seats. Councilor Tracey Stevens did not seek re-election.

Gardiner: Of the four city council races, all but one featured a contest. Incumbents Patricia Hart, Philip Hart (no relation) and Richard Heath were all returned to office. Meanwhile, Terry Berry won the seat being vacated by Christopher Leake.

Gorham: Incumbent Town Councilor Matthew Robinson won another term in a five-way race for three seats. Other winners were Bruce Roullard, who collected the most votes with 1,485, followed by Robinson with 1,280. Newcomer Benjamin Hartwell won the third seat with 1,251 votes. The two other contenders received 1,221 and 963 votes.

Hallowell: George Lapointe defeated former Councilor Andrew McPherson by a vote of 534-283. In uncontested races, Mark Walker will replace Charlotte Warren as mayor, while Lynn Irish will replace Walker.

Houlton: Newcomer Wade Hanson received 620 votes and incumbent Councilor John White garnered 407 votes to win two open seats in a field of six candidates, which also included a former councilor.

Lewiston: Incumbent Mayor Robert Macdonald defeated former police chief and U.S. marshal Larry Gilbert by a vote of 4,123 to 2,610. Meanwhile, Leslie Dubois defeated incumbent John Butler, Jr. by a vote of 413-328 to win the Ward 1 council seat. In the Ward 7 race, Michael Lachance bested incumbent Richard Desjardins by a vote of 597-409. Kristen Cloutier won 69 percent of the Ward 5 vote, or 330 votes, to hold off two challengers, neither of whom broke the 85-vote mark. In the only other contested race, incumbent Doreen Christ defeated one challenger to keep her seat by a vote of 625-444.

Madawaska: Former Selectman Ivan "Skip" Fletcher was returned to office by defeating a challenger, 391-

255. Fletcher will replace Michael Williams, who resigned last summer.

Millinocket: Incumbent Councilor Richard Angotti won 807 votes and newcomer Richard Theriault collected 706 votes to win two seats from a pool of five candidates.

Oakland: Two incumbents held off challenges to win re-election, including Michael Perkins, the council chairman, who received 517 votes. Incumbent Byron Wrigley, a 17-year council veteran, collected 394 votes to keep his seat. Two challengers received 314 and 277 votes.

Old Town: Lori Smart and incumbent Councilor Carol May collected the most votes in a five-way race for two open seats. Smart won 754 votes and May received 743 votes. The closest challenger garnered 486 votes.

Oxford: Peter Laverdiere easily defeated two other candidates to win the selectman seat that opened when Dennis Sanborn died last May. Laverdiere is a longtime town government volunteer, serving on both the budget and board of appeals. He collected 295 votes to finish out the two years of Sanborn's term. Two challengers received 112 and 95 votes.

Portland: Incumbent Councilors Edward Suslovic and Jill Duson were returned to office with 1,912 and 6,081 votes, respectively. Duson was challenged by two newcomers for the at-large seat and easily defeated them both by margins of 2-1 by winning 57 percent of the vote. Suslovic defeated his challenger by garnering 60 percent of the vote. Meanwhile, former state Rep. Jon Hinck defeated incumbent John Anton by a vote of 7,101 to 5,171.

Presque Isle: Incumbents Michael Chasse, who had been finishing an unexpired term, received 723 votes to defeat incumbent Jacqueline Goodine for a two-year term, while incumbent Randy Smith won 582 votes to win a four-year term.

Randolph: Mark Roberts held off two other contenders to replace longtime Selectman Peter Hanley, who has served as selectmen on and off for more nearly 40 years. Roberts received 149 votes to win the three-way race, with his competitors earning 81 and 67 votes.

Rockland: Incumbent City Councilor Larry Pritchett was re-elected with 780 votes, while Louise MacLellan-Ruf won her first election with

748 votes. Former Mayor Hal Perry received 489 votes.

Sabattus: Former Fire Chief Don Therrien was elected selectman with the most votes in a six-way race with 396 votes. Incumbent and board chairman Mark Duquette received 348 votes to win the second available seat. Incumbent Andre Marquis was among the losers with 172 votes. There were three other candidates for the seat.

Saco: In an election tight enough to seek a recount, officials announced on Nov. 18 that the results were unchanged in all contests. In Ward 1, David Precourt defeated two challengers by winning 247 votes. Cynthia Chadwick-Granger, who sought a recount, received 233 votes, while incumbent Margaret Mills collected 219 votes. In Ward 2, incumbent Leslie Smith Jr. received 309 votes, defeating his challenger by 28 votes. The vote count remained the same in both wards. But in Ward 7, newcomer Nathan Johnston widened his election-night win by picking up three votes during the

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recount. He defeated incumbent Marston Lovell by a vote of 180-175.

Sanford: Voters elected Thomas Cote as their first popularly elected mayor, with Cote defeating Councilor Brad Littlefield by a vote of 2,614 to 742. A third candidate snagged 779 votes. Sanford became Maine's newest city earlier this year. The victory for Cote, who has served on the budget committee, was his first election attempt. Cote replaces interim Mayor Maura Herlihy, who did not seek election. In other voting, five candidates vied for the single available council seat, with voters re-electing Kenneth Burgess with 1,142 votes. He defeated former councilor Victor DiGregorio, who collected 755 votes. Three other newcomers rounded out the field.

Scarborough: Voters replaced two incumbent town council incumbents. Jean Marie Caterina picked up the most votes with 2,065, while William Donovan garnered the second-highest vote count with 2,177 votes. Incumbents Carol Rancourt won 1,208 votes, while fellow incumbent Judith Roy received 1,482 votes.

South Portland: Mayor Tom Blake was re-elected and former Councilor Maxine Beecher was returned to the board after receiving 3,900 and 3,761 votes, respectively. Blake's victory was his third, while Beecher had served four terms before leaving office in 2012. A school board member and a former planning board member also won a large number of votes, but still fell short.

Topsham: Voters returned Marie Brilliant to the Board of Selectmen with 1,008 votes and elected Bill Thompson, secretary of the town's finance committee, to replace Jim Trusiani, who did not seek another term. Thompson received 893 votes.

Westbrook: Mayor Colleen Hilton handily defeated two challengers to keep her leadership role on city council. She received 1,872 and won in all five city voting wards. Meanwhile, incumbent at-large Councilor John O'Hara won re-election with 1,829 votes, compared to 1,469 ballots for the challenger. In contested ward races, incumbent Victor Chau defeated one challenger, 426 to 177; in ward 4, newcomer Gary Rairdon defeated two challengers by a vote of 272 to 224 to 63. [m]

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U-Maine at Augusta: Leads in Distance Ed

By Dr. Daylin Butler, Professor of Business and
Public Administration, University of Maine at Augusta

Until recently, public administration education in Maine was limited to onsite programs at the University of Maine campuses in Orono, Portland and Augusta. Some courses were available at a distance via the interactive television system, or the internet, but most program courses required attendance on campus. That traditional approach is rapidly giving way to a modern distance-education system, which allows students to complete courses and degrees with little commuting and a minimal emphasis on fixed meeting schedules.

The transition to distance education has been accompanied by a reorganization of degree granting authority within the University of Maine System. The public administration programs at the University of Maine campus in Orono have been eliminated. All bachelor's degrees in the field are now offered by the University of Maine at Augusta, and all master's degrees are offered by the University of Southern Maine.

It should come as no surprise that the University of Maine at Augusta is leading the move into distance education for public and not-for-profit managers. The campus was a pioneer in the use of interactive television and has enthusiastically embraced other methods of distance learning as they have developed. Since the fall of 2012, every course in the Augusta public administration program has been available over the internet so that sessions can be viewed from anywhere with a

quality internet connection.

Beyond that, they can be viewed when students have time, rather than in accord with a traditional class meeting schedule. These are not simply "web" courses. Almost all of them have regular, live, onsite sessions that students can attend if it is convenient. These sessions are recorded and provided on the internet for those who prefer to participate from a distance. Most courses have proctored exams but these can be completed in your local area. So, public employees across the state can earn a degree without ever travelling to the Augusta campus.

UMA offers three related versions of the Bachelor of Science in Public Administration. The first is a four year (121 credit hours) degree. The second combines a relevant associate's degree with 60 credit hours in public administration. And the third is a second bachelor's degree, which can be completed with 30 credit hours of public administration course work.

The second option, which adds ad-

ministrative coursework to a prior associate's degree, may be of particular interest to municipal employees. Students with an associate's degree from an accredited institution in criminal justice or justice studies, fire science, social or human services, computer technology, or a health care discipline, can complete a Bachelor's of Science in Public Administration with approximately 60 additional credit hours.

STRONG COMBINATION

The combination of an associate's degree in one of these important areas and a strong set of administrative skills is potent. UMA graduates who started with an associate's degree in criminal justice or fire science, for example, have served as chief of the Maine State Police, county sheriff, local police chief and local fire chief. But these degrees offer more than just an enhanced prospect of promotion in the original, associate degree field. They give graduates flexibility in career



For additional information and details about the program, see the public administration program pages on the UMA website (<http://www.uma.edu/publicadministration.html>) or contact Dr. Daylin Butler (daylin@maine.edu).

planning, including many opportunities for later career changes *without additional education*.

Students who already have a bachelor's degree in another field can add a second bachelor's degree in public administration with just 30 credit hours of additional coursework. This option meets the needs of individuals who originally prepared in fields like English or sociology, disciplines with a limited capacity to support a career in administration. Thirty credit hours give them a degree that opens doors and strongly enhances career prospects. This second bachelor's degree can also be added to prior degrees in health care, criminal justice, human services and other fields to create strong combinations of skills that are much needed in modern organizations.

The UMA program faculty includes an outstanding group of Maine public officials who offer courses in their areas of expertise: Bill Bridgeo, Augusta City Manager; Rick Michaud, Saco City Administrator; Dan Wathen, former Chief Justice of the Supreme Judicial Court of Maine; and, Dawn Gallagher, former Commissioner of the Department of Environmental Protection and a graduate of the UMA program. At various times, courses have been offered by a Maine Attorney General, Maine Secretary of State and other public officials. These individuals bring an extraordinary depth of practical experience to the program.

The UMA public administration

curriculum is balanced and comprehensive. It covers public-sector institutions, the central functional areas of modern administration, and a range of valuable and relevant analytical skills. It is designed to produce managers with an understanding of modern organizations, sensitivity to political realities, grasp of management methods and knowledge of the analytical tools needed to illuminate substantive issues.

Augusta program graduates have been successful in the job market and have had solid careers in a variety of public and not-for-profit organizations. Whether you are talking about a Chief Deputy Secretary of State, Clerk of the Maine House of Representatives, a commissioner, town manager, police chief, airport manager or one of many important positions in the ranks, the UMA public administration program has made a difference in the quality of life in Maine. This year, for the first time, it is being delivered to every part of the state which has a quality internet connection. This makes it possible to meet a broad range of individual needs and it offers serious help to municipalities struggling with succession plans.

UMA Public Administration graduates who want to continue their educational preparation for careers in public and nonprofit administration can take advantage of an agreement between UMA and USM's Muskie School of Public Service. If a student graduates from the UMA program

with a 3.0 GPA (in Public Administration and overall), and meets the USM admissions criteria, then two USM courses will be waived, cutting the number of credit hours needed for graduation, lowering costs and reducing the time needed to complete the Master's Degree in Public Policy and Management.

The new system of public administration education in Maine offers a lot of advantages to potential students. Technology makes it possible for them to avoid lengthy commutes and rigid meeting schedules. Degree options have been designed to meet the needs of diverse audiences, ranging from individuals just getting started on their college careers to those with prior associate's or bachelor's degrees. The program faculty includes a blend of experienced academic professionals and outstanding public officials. Those who earn good grades at UMA are entitled to advanced standing in the USM master's degree program. And all of this is available anywhere in Maine with a quality internet connection. **umc**

Editor's Note: *This is the second in a series of Maine Townsman articles from Maine-based institutions of higher learning that have expressed interest in municipal training, education and succession-planning needs. Many of the institutions are updating and changing their offerings. Thus, MMA is allowing college officials to explain programs in their own words one time during this series, which will end early in 2014.*

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Engaging Youth In Local Government

By Tim Mudd

When Alderperson Scott Resnick of Madison, Wisc. ran for local elected office in 2011 at the age of 24, he knocked on nearly every door in his district – which encompasses parts of the University of Wisconsin–Madison campus and surrounding neighborhoods. As he was greeted by residents, some would mistakenly ask, “Are you running for student council?” To their initial surprise, Resnick replied that he was seeking their vote for a seat on the Madison Common Council.

Engaged in local governance from a young age, Alderperson Resnick joined his home town’s Youth Action Council while in high school, continued his passion for public service in various clubs throughout college at UW-Madison, and upon graduation, served as President of the State-Langdon Neighborhood Association. In 2004 during his junior year in high school, Resnick also served as a youth representative on NLC’s Council on Youth, Education, and Families.

“From my earliest days involved with local government back in Wausau, I learned to love how communities are made strong by effective and creative leadership,” said Resnick.

At NLC’s Congress of Cities in Boston recently, Alderperson Resnick shared his experience in local government with nearly 100 youth delegates. Joining him on the panel were Boston City Councilor Matt O’Malley, age 33, and Coral Springs, Fla. City Commissioner Dan Daley, age 22. The young elected leaders told the youth to not let their age restrict them from

engaging in public service – that their voice adds value to the design of local policies, practices, and public spaces.

YOUTH AS PARTICIPANTS

Over the years, municipal leaders have increasingly championed this same message in cities across the country. More and more city leaders see youth as a resource for community problem-solving rather than simply recipients of services. Youth are working with elected officials and other

city leaders to tackle important issues, and similar to Alderperson Resnick, discovering that their voice matters to their communities and taking initiative to make it heard.

For instance, in Boston, with the support of Mayor Thomas Menino, youth participation in local governance is a pervasive and self-perpetuating expectation throughout the city. Part of the comprehensive Boston Youth Zone initiative, the Boston Mayor’s Youth Council (MYC) empow-



To learn more about how your community can engage youth in local decision making, contact Leon T. Andrews Jr., at (202) 626-3039 or andrews@nlc.org.

ers youth to act as advocates for themselves and their peers through identifying and representing the needs and desires of the youth community before city leadership.

The council consists of 40 high school juniors and seniors selected from each of the city's 12 neighborhoods to ensure that the council represents the diversity of youth in Boston. Council members are highly responsive to their peers, and conduct regular outreach to their neighbors and local community organizations. At the same time, MYC staff encourages youth to explore their political interests, connecting them with state legislators, U.S. Senators, members of the White House, among others.

In addition to engaging the next generation of civic leaders, cities using effective approaches to youth participation are realizing far reaching benefits such as budget savings and revenue generation; increased support for city initiatives; improved policies and programs for youth; identification as a youth-friendly community; and improved indicators of well-being among youth.

NLC's Institute for Youth, Education, and Families (YEF Institute) has drawn upon the experiences of communities with the most robust youth engagement initiatives to develop an Authentic Youth Civic Engagement (AYCE) framework consisting of four critical elements for a successful initiative:

- A setting in which the civic climate of the community is welcoming and inviting to youth, acknowledging

their role in public policy, planning, and decision-making.

- A structure in which the organization and system that supports AYCE meets both the needs of the local government and the interests of the young people.

- A strategy that offers a wide range of activities and provides youth with a breadth and depth of meaningful opportunities for participation in local government.



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
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• And, support from adult allies, both within and outside local government, which enables the young people involved in AYCE efforts to have a real impact on issues that concern them.

Like any other local initiative, there may be no magic recipe for youth participation. But, as noted by Alderperson Resnick, Counselor O'Malley, and Commissioner Daley, it must begin with an acknowledgement that the youth voice matters – that youth are valuable stakeholders, capable of contributing to the vibrancy of our communities. 

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**Questions? Please contact the Educational Services
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Maine Municipal Association

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Longtime former Guilford Town Manager **Bob Littlefield** died Nov. 1 at the age of 82. Over his 31-year career in the Piscataquis town of 1,500, Littlefield was known as a fun figure who worked hard and knew everyone. Littlefield was a volunteer firefighter, among other jobs and interests he pursued over his lifetime, but was remembered by most of his friends and colleagues for his wry wit and disdain for modern technology. He retired as town manager in 2002.

Livermore selectmen hired **Larry Lord** of Jay as animal control officer, effective Dec. 1. Lord replaces Wayne Atwood, who resigned effective Nov. 30. Lord, who works full-time, does most of his animal-control duties in the early evening. He also works as animal-control officer for the Town of Livermore Falls.

Waterville City Councilor **Eliza Mathias** resigned Oct. 30, citing increased work responsibilities that require her to travel out of state weekly. Mathias is also a former Planning Board member who said she will continue working on the city's Comprehensive Planning Committee, as well as the Waterville Development Corp. Councilors expect to fill Mathias' seat by the end of the year.

Longtime Portland planner **Bill Needelman** was named the city's first waterfront director. The city has hired several people to manage the waterfront, but Needelman is the first person with the responsibility to advocate for development of the waterfront, help settle disputes and coordinate with other city staff on waterfront projects. Needelman, a city planner for 15 years, was among 80 applicants for the job.



Michelle Small

Michelle Small was named the Bath Police Department's first female supervisor in late November, more than a century after her great-grandfather, Charles Small, served as city marshal. Small, who

joined the department in 2001, is a certified canine patrol officer who was promoted to corporal in 2003.

John Spear has resigned as Waldoboro town manager to take the job of administrative assistant in his hometown of South Thomaston, where he served off and on as selectman for a total of 11 years. Spear, Waldoboro manager since August 2011, said he wanted a less stressful job, a shorter commute and a four-day work week. Spear was scheduled to begin his new job on Dec. 16. Former state Rep. **Wesley Richardson** of Warren will serve as interim town manager.

Former Portland Mayor **William Bernard Troubh** died Nov. 8 at the age of 78. In addition to serving multiple terms on the city council, Troubh served as mayor from 1974-1975 and again in 1983-1984. He is credited with helping to develop the city waterfront and Cumberland County Civic Center, among other efforts. Troubh was a founding partner in the law firm Troubh Heisler.

Millinocket Fire Chief **Andrew Turcotte** resigned effective Dec. 6 and

hopes to work as a private consultant. He was hired as chief in September 2012. Officials hope to hire a new chief from within the current department staff.



Shelley Watson

The Dexter Town Council named **Shelley Watson** as the community's new manager. Watson has worked for the town since 1987 and as town clerk since 1996. Deputy Clerk Kim Hughes will be promoted to town clerk on Dec. 1, when Watson begins her new duties. Watson replaces Linda-Jean Briggs, who resigned in October.

Tiki White was named permanent Rangeley town manager in late November after serving as interim manager since last July, when manager Tim Kane resigned to take a school superintendent's job in Washington County. White worked for the town for seven years. She served as Kane's administrative assistant. [ML](#)

PHOTOS: If your municipality submits a news item for the Townsman, consider sending a corresponding photo to: Eric Conrad or Jaime Clark (econrad@memun.org or jclark@memun.org)

NEW ON THE WEB

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

- **Land Use Permitting, Payment.** Michael L. Stultz, staff attorney with MMA, has written a summation of a Florida court case that has important implications for municipal land-use permitting and payment procedures.
- **Emergency Preparedness.** The sixth Annual Maine Partners for Emergency Preparedness Conference will be held in April 2014 at the Augusta Civic Center. Event planners are seeking workshop and speaker suggestions.
- **Concealed Weapons.** The Maine Attorney General's Office and Maine Chiefs of Police Association will hold training in January 2014 for officials responsible for issuing concealed handgun permits.
- **Municipal Directory.** The latest edition of one of Maine Municipal Association's most-read publications – the annual Municipal Directory – is out and available for order by members and the public.



Statewide: The long and contentious question over so-called tar-sands oil from Canada was decided in Nov. 5 voting. By a slim margin, voters rejected a ban on waterfront development contained in a proposed zoning ordinance change. The vote was 4,453 against the change and 4,261 voters in favor of it.

Ordinance supporters argued the proposal was written concisely to prevent just one of the terminals from being converted to tar-sands oil exports, which would necessitate a reversal in the oil flow. Opponents said the zoning change would prevent future development of the port when there was no plan to move the controversial crude through the city's oil facilities.

The tar-sands controversy has percolated for more than two years along the 236-mile oil pipeline from South Portland to Montreal. The pipeline was built during World War II and was designed to follow the railroad corridor from Portland to Montreal and carry imported oil to Canada. The pipeline runs through numerous western and southern Maine communities, then through New Hampshire and Vermont, ending in Montreal.

Ashland: This Aroostook County town of 1,400 will be the home of a new health-care center, thanks to a \$301,000 federal grant. The center will be run by the Katahdin Valley Health Center and provide comprehensive physical and mental health services. The money is

part of a \$1 million grant to KVHC and the Penobscot Community Health Center under the Affordable Care Act. It is aimed at improving health services in rural Maine, including the town of Jackman in northwestern Maine.

Bucksport: The U.S. Department of Agriculture awarded the town \$10.5 million in grants and loans to build a second but larger wastewater treatment facility. The improvements should help reduce the pollutants that drain into the Penobscot River. High amounts of bacteria and increased levels of toxins in fish downriver from Bucksport compelled the town, state and federal governments to make the improvements. The project will require the town to pay \$550,000.

Lincoln: A subcommittee of the town council is recommending increases in solid waste disposal to keep up with the rising cost of sending its trash to the Penobscot Energy Recovery Co. Under the proposal, developed after a town-wide survey, commercial waste would cost \$51 a ton in tipping fees and residents would pay an annual \$20 fee for use of the transfer station. Presently, both commercial and residential haulers get one free pass each year and then pay \$1 for each subsequent visit. The full council is expected to take up the proposal in December.

Monmouth: Monmouth Rescue Association plans to cancel service due to a drop in call and uncompetitive pay that makes it hard to recruit profes-

sionals. The association's contract expires on Jan. 13, when it will also cancel services to the Town of Wales.

Paris: A new quarterly tax payment program appears to have solved the town's cash flow problems. As of late November, the town's till contained about \$1.3 million, enough to pay municipal expenses until the next quarterly payments come due. The tax collection change was approved by voters in at the annual town meeting last June.

Rockland: Councilors in November agreed to seek a \$200,000 grant, matched by the city, to extend its harbor trail with a boardwalk along the Harbor Park seawall. The project would be part of a larger effort to redesign the city-owned park where most of the summer festivals are held. The city will seek a grant from the National Park Service and be matched with money from the downtown TIF redevelopment program.

Somerville: The town donated a fire engine to the Monhegan Volunteer Fire Department. The truck is a 1974 International that can hold 825 gallons of water. It will significantly increase the island's fire crew ability to effectively fight fires. [\[m\]](#)

Classified

PALMYRA RECYCLE TRUCK – BEST REASONABLE OFFER

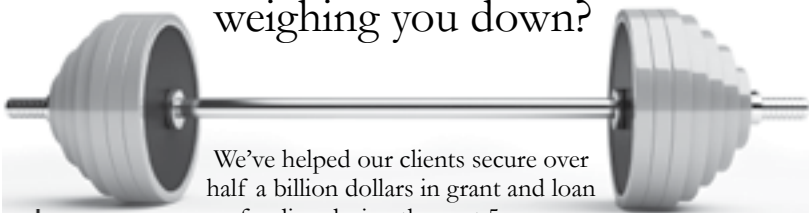
The Town of Palmyra would like to sell their International DT 408 Recycle Truck. The Truck is ready to work.

The truck has 158,790 miles on it. Service on the truck within the past year: New Paint on the Bins, New Brakes, New Hubs and Rims.

The truck can be seen at the Town Garage at 673 Main Street.



Call 938-3643 for details. The Board of Selectmen reserves the right to accept or reject any or all offers. Offers may be dropped off at: The Town Office at 768 Main Street. Mailed to: PO Box 6, Palmyra Maine 04965 or E-mailed to: palmyratown@roadrunner.com [\[m\]](#)

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PUBLIC COMMENT PERIOD

Question: Our board is considering adding a public comment period to our agenda. Do you have any advice?

Answer: Yes, we do. But first understand that except at a public hearing, the public has no legal right to speak at a public board meeting. Maine's Freedom of Access Act or "Right to Know" law entitles the public to attend and record meetings but not to speak at or otherwise participate in them (see 1 M.R.S.A. §§ 403, 404).

That said, many boards find it useful to set aside a limited time during their meetings for public comment – when any member of the public may address the board on any matter of bona fide public concern. We generally endorse this practice, but with the following suggestions:

- Schedule the comment period for regular meetings only and at a time convenient for the public, for example, at the outset of the meeting or at the end if the meeting is relatively short.
- Establish reasonable time limits for each speaker (*e.g.*, 3-5 minutes) and for the comment period as a whole (*e.g.*, 20-30 minutes), but reserve the right to modify these limits if warranted.
- Require speakers to identify themselves and be recognized by the chair before speaking.
- Require all comments and questions to be directed to the chair or through the chair to others.
- Prohibit inappropriate, offensive, derogatory, threatening or overly repetitive comments.
- Do not feel compelled to respond to comments or answer questions immediately; feel free to take matters under advisement.

• Adopt a policy clearly stating what the rules are, summarize them before each comment period, and apply them fairly and uniformly.

And remember – never cede control of your meeting to others. If someone is disruptive, ask them politely but firmly to sit down and be quiet. If they refuse, ask them to leave. If they won't, ask a police officer, if available, to escort them out. If no officer is present, call a recess until one can respond or

consider adjourning to another time. It's your meeting, and though you are doing the public's business, you have the right, without unwanted interference, to conduct it in a civil and orderly manner. (*By R.P.F.*)

'LANDLOCKED' LOTS

Question: We've been told it's illegal to create a "landlocked" lot (*i.e.*, a parcel of land with no legal access). Is this true?

Answer: No, it's not. There's no Maine law prohibiting the creation of a landlocked lot (though one wonders why any buyer would knowingly agree to a seller doing so). Presumably, most landlocked lots are unintended – the result of legal oversight or inattention.

In any case there are a number of ways the owner of a landlocked lot may be able to get legal access to it. First would be to negotiate, if possible, for a deeded easement over abutting land. This may well require paying the abutter, but it is apt to be more cost-effective and time-efficient than any other alternative.

If the abutter is unwilling to grant an easement, there are several common law theories under which a court may declare an easement if the specific facts warrant it. These include an easement by implication, an easement by necessity, and an easement by prescription. But each of these theories requires suit by the party claiming the easement and proof of the required

facts before the court may declare the easement to exist. Without a court finding, an easement under any of these theories is merely conjectural and is unenforceable.

Another way to secure legal access to a landlocked lot would be for the municipality to lay out and take, by eminent domain, a public easement connecting the lot to a public way, but this requires a public "exigency" or imperative and, of course, the payment of money damages (see 23 M.R.S.A. § 3022), so it is rarely if ever available to resolve a private access problem.

Although, as noted, there is no State law prohibiting creation of a landlocked lot, many local ordinances require frontage on a public or private road or access via a deeded right of way in order to ensure that lots have legally enforceable access. Often, however, these requirements are only a prerequisite to a building permit, so they do not necessarily prohibit the *creation* of a landlocked lot, even though it may be unbuildable.

Finally, it is even possible under Maine law for an existing lot with legal access to be rendered landlocked. This can happen, for example, by expiration or abandonment of a private easement or, if access is via a public way, by discontinuing the way without retaining a public easement. Although neither of these is a common occurrence, both are possibilities.

For more on the creation and dis-



Municipal Calendar

JANUARY 1 — New Year's Day 2014 – 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 20 — 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.



Legal Notes

continuance of public ways and public easements, see our *Municipal Roads Manual*, available free to members at www.memun.org. (By R.P.F.)

A STATUTE OF LIMITATIONS FOR LAND USE VIOLATIONS?

Question: Is there a statute of limitations or time limit for prosecuting municipal land use violations in Maine?

Answer: No, there isn't. Title 30-A M.R.S.A. § 4302 expressly declares that any property or use in violation of a municipal land use ordinance or regulation is a "nuisance." This means, in effect, that each day a violation continues constitutes a new and separate offense, regardless of how long ago the violation began (see *Card v. Nickerson*, 150 Me. 89, 96 (1954)). Thus, there is no fixed period of time within which a lawsuit for a local land use violation must be commenced.

There may be cases, however, where enforcement is barred by the doctrine of "equitable estoppel." This common law doctrine holds that where the violator reasonably relied on actions or advice of the municipality in committing the violation, it would be unfair to punish him. But the applicability of equitable estoppel is highly fact-dependent, and it is not applicable where the ordinance was clear, or the official acted without authority, or the violator was deceitful.

Another common law doctrine, that of "latches," holds that it would be unfair to punish the violator if the municipality has failed to prosecute for an unreasonable length of time, but we know of no Maine case where latches has succeeded as a defense to a code enforcement action.

It's worth noting that since each day a land use violation continues is a separate offense, the statutory penalty of \$100-\$2,500 may be assessed on a per-day basis (see 30-A M.R.S.A. § 4452(3)). All fines assessed are payable to the municipality, not the court (see 30-A M.R.S.A. § 4452(4)). If the municipality prevails, in most cases it must also be awarded its attorney fees and costs (see 30-A M.R.S.A. § 4452(3)).

For much more on the enforcement of land use ordinances, see our

Code Enforcement Officers Manual, available free to members at www.memun.org. (By R.P.F.)

CAMPAIGN FINANCE LAWS & MUNICIPAL ELECTIONS

Last month's State election was in many places conducted in conjunction with municipal elections. These local races generated a number of inquiries to our office about the applicability of State campaign finance laws to municipal elections, so let's set the record straight:

Maine's campaign finance laws do not apply to candidates for municipal office or to municipal referenda campaigns except in (1) municipalities with a population of 15,000 or more and (2) municipalities with a population of less than 15,000 which have chosen to be governed by these laws

(see 30-A M.R.S.A. § 2502).

A municipality of less than 15,000 may choose to be governed by the campaign finance laws by vote of its legislative body (town meeting or town or city council). A vote to do so, as well as any vote to revoke that vote, must be at least 90 days before the election in question.

For municipalities that are or that have chosen to be governed by the campaign finance laws, the registration, recordkeeping and reporting requirements are spelled out in detail in 21-A M.R.S.A. §§ 1001-1020-A (for candidates) and §§ 1051-1063 (for political action and ballot question committees). Registrations and reports must be filed with the municipal clerk, however, instead of the State Commission on Governmental Ethics and Election Practices. (By R.P.F.) www.memun.org

MMA Personnel Services and On-site Consulting Services

MMA Personnel Services offers a wide range of specialized on-site consulting services for our members. Personnel management and labor relations expertise is available for direct assistance or general inquiries through a toll-free telephone line. Direct on-site assistance is available in the following areas:

Labor Relations — Representation of the municipality in labor negotiations, mediation, arbitration and grievance processes.

Executive Search — Assistance with the recruitment of a new city or town manager or department head.

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



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2014 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	1

MARCH						
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					

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			

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

Wednesday, February 5th

Application Deadline.

Wednesday, March 19th

Application approval (Board Meeting).

Monday, April 7th

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

Wednesday, April 9th

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

Monday, April 21st & Tuesday, April 22nd

Maine Municipal Bond Bank Pricing.

Wednesday, April 23rd

Maine Municipal Bond Bank Sale Meeting (Board Meeting).

Tuesday, May 13th

Final documents due from bond counsel.

Wednesday, May 21st

Pre-Closing.

Thursday, May 22nd

Closing - Bond Proceeds Available (1:00 PM)

If you would like to participate in or have any questions regarding the 2014 Spring Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



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