



LEGISLATIVE BULLETIN

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Housing Conundrum

Where do your Legislators stand?

The statement “where you stand, depends on where you sit,” aptly describes the so-called fixes to the infamous 2022 housing law, commonly referred to as LD 2003, being advanced by a majority of the members of Housing Committee.

It appears that because the Legislature advances initiatives without community buy in, state officials believe municipal leaders can and want to do the same. However, that is not the case. At the local level, the successful implementation of public policy requires planning, time, and resources and in the case of the adoption of an ordinance, a vote of the local legislative body, which for several communities is the town meeting. As it pertains to the implementation of LD 2003, none of that currently exists.

The rules necessary to implement the law have just been finalized and the revenues that Maine’s Constitution requires the state to provide to fund 90% of the cost of advancing the planning mandate hoisted on municipalities have not been delivered. Nor has the state issued the grants promised to regional planning organizations ready to assist municipalities in implementing this housing charge.

Yet, the message coming from some members of the legislature is that local leaders, planning board members, and the residents of our communities are to blame for not moving forward without the promised and necessary resources.

While it may be the case that the legislature can advance policy initiatives without additional resources, municipalities cannot. Local leaders cannot simply put aside the everyday tasks of attending to residents’ needs, fixing potholes, managing solid waste, and keeping our communities safe to initiate policies that would be better implemented via the development of an equitable state/municipal partnership. But for whatever reason, that is not the prevailing view and lines are now being drawn.

After voting “ought not to pass” on LD 655, sponsored by Allison Helper of Woolwich on behalf of municipal officials to extend the implementation of the housing mandate to July 1, 2025, the members of the Housing Committee elected instead to use LD 1706 *Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units*, as an avenue for “fixing” the law.

Based on a work session held on May 5, it appears that municipalities will be provided with an extension to implement the

enacted housing regulations, with some communities granted six months to complete the task, and others provided a year to do so.

The focus is now on how to divide communities into those two categories. The impetus behind the approach is an assumption that council communities already have the means, including the clairvoyancy necessary to have known in August of 2022 what the rules adopted in May 2023 would contain, to implement the program.

Regardless of the justification used, both timeframes are insufficient.

What some lawmakers fail to understand is that not all council communities have the same staff and planning capacities or space on their current work plans to accomplish the tasks within

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Much To Do About GA

After conducting hearings and work sessions on nearly 40 bills throughout the week, on May 5, the members of the Health and Human Services Committee mustered up the energy and enthusiasm to conduct a marathon public hearing on several pieces of legislation seeking to amend the General Assistance (GA) program. Of note, were four bills calling for greater state financial assistance and support for municipalities, as well as reforms to the way in which the program is administered and enforced.

LD 1664, *An Act to Increase Reimbursement Under the General Assistance Program*, is elegant in its simplicity, as it seeks to increase from 70% to 90% state reimbursement to municipalities for the direct aid provided to eligible applicants. The bill, sponsored by Sen. Marianne Moore of Washington County, was sponsored at the request of MMA’s Legislative Policy Committee.

To stress the importance of LD 1664, some background is warranted.

Between 2013 and 2022, the state’s share for GA expenditures was roughly \$11.2 million, annually. However, as of late, the lingering effects of a global pandemic and the resulting flight to Maine, the rapid conversion of year-round housing to short-

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Housing Conundrum...cont'd

six months. In fact, many are now facing months of work to edit existing housing development related ordinances to meet the letter of this arbitrary law. While these councils will ultimately cast the votes implementing amended local regulations, once ordinance rewrite communities have accomplished the initial task, public hearings and multiple readings of the proposed ordinances will be required. These regulations are not adopted with the mere snap of a finger, but with the due diligence and public participation our residents deserve.

The delay proposed in LD 665 would

have provided those forward-thinking communities with time to accomplish the task with necessary attention and care. The bill would have also extended to towns with limited or no capacity the time to get up to speed. Furthermore, in communities where town meeting attendees adopt ordinances, it is likely that the cost of implementing the housing directive will increase as municipalities will be forced to hold special town meetings to get the job done within the year.

Call to Action. While we wait for the amendments to be finalized and shared with

the public, municipal officials are urged to connect with members of the House and Senate. **Specifically, please ask your representatives where they stand on the timing of the implementation of LD 2003 and why they support the selected timeframe.**

For what it's worth, the preference among the municipal leaders serving on the LPC is to delay implementation of LD 2003 by no less than 18 months. Perhaps not the intention, but from the outside looking in, it appears the subject matter experts and practitioners are being ignored.

Cannabis News

...here's what's happening on Shakedown Street.

With a full day scheduled to begin Monday morning at 9:00 a.m. for two public hearings—one of which, LD 1880, *An Act to Amend the Adult Use Cannabis Laws*, was added over the weekend—along with sixteen work sessions on cannabis related bills, the Veterans & Legal Affairs Committee members settled into their seats.

With the incredible number of bills to be worked, staff took to the magic eight ball to see how the day would play out. Reply... still hazy.

The bill sponsor for LD 1880, Rep. Laura Supica of Bangor, described the measure as intending to be more representative of how users consume cannabis by lifting the restrictions on the amount of cannabis an individual can purchase, carry, and transport for consumption and allowing for the operation of social clubs. An amendment, which MMA has not seen, was drafted to remove the requirement for a special social club license, allow for the transfer of licenses to other licensees and to limit the shelf life of cannabis flower inventory. The bill also clarifies current law providing that the delivery of cannabis and related products to residences is authorized in all communities, even in those that do not allow the industry to operate within municipal boundaries, and extends the delivery of products to hotels or businesses, with permission of the proprietor.

Several members of the public rose in support of LD 1880 sharing the same

sentiment that limiting shelf life ensures quality products and that most people can join a wine of the month club, so why not cannabis delivery as well.

On the flip side, one person testified that a shorter shelf life would hurt his business and could not support such a proposal.

MMA and Derek Shirley, resident of Gray, testified neither for nor against the bill. MMA reiterated the need for local control and Shirley, who identifies as a person not a party, provided incredibly passionate and animated testimony.

In general, he was supportive of the bill, noting that he could easily consume the current limit and potentially more under certain circumstances. However, he was vehemently opposed to the shelf life portion of the bill, asking committee members if they would consider eating year-old apples or baking a pie with apples of that age. When Shirley was asked if he thought the shelf life should be less, he replied with an emphatic “yes” but equally ardently retorted who was he “to judge what people want to consume.” Yet, did he recommend it? Absolutely not.

With no one else to testify, the committee closed the public hearing and moved on to the work session portion of the day. First up of municipal interest was LD 1680, *An Act to Allow Cannabis Advertising and to Allow Cannabis Delivery*, which intends to clarify language allowing for the delivery of cannabis to short term rentals (STR) and

cannabis advertising.

After relatively no discussion, a motion of ought to pass as amended was made and passed with a divided report. The amendment clarified the language for the STR provision. Rep. Karen Montell of Gardiner commented on the record that the committee has historically cut back on the advertising for products like alcohol and smoking and could not support a measure that essentially moved backwards in that respect.

The committee rolled into the next work session for LD 1686, *An Act to Eliminate Unconstitutional Restrictions on Access to Cannabis by Removing Certain Restrictions on Medical Use and Personal Use and to Recognize Cannabis and Hemp as Food Protected as a Right Under the Constitution of Maine*, sponsored by Sen. Eric Brakey of Androscoggin County.

This proposed bill would recognize cannabis and hemp as food and would therefore be constitutionally protected under the right to food. The committee analyst cautioned that Maine is the first state in the nation to have a provision in their constitution that guarantees all citizens have a right to food. This means there is no case law to set precedence and if this was challenged, it would be up to the courts to decide—essentially setting the precedence. The analyst also reminded the committee that MMA testified in opposition based on the home rule premise.

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HEARING SCHEDULE

For the week of May 15, 2023

MONDAY, MAY 15

Health Coverage, Insurance & Financial Services

Room 220, Cross Building, 10:00 a.m.
Tel: 287-1314

LD 1832 - An Act to Require Reimbursement of Fees for Treatment Rendered by Public and Private Ambulance Services

Judiciary

Room 438, State House, 10:00 a.m.
Tel: 287-1327

LD 1904 - An Act to Enact the Maine Fair Chance Housing Act

Veterans & Legal Affairs

Room 437, State House, 9:00 a.m.
Tel: 287-1310

LD 1914 - An Act to Enact the Maine Psilocybin Health Access Act

Energy, Utilities & Technology

Room 211, Cross Building, 1:00 p.m.
Tel: 287-4143

LD 54 - An Act to Require Compliance with Natural or Agricultural Resource Protection Ordinances

LD 1645 - An Act to Reduce Plastic Packaging Waste

TUESDAY, MAY 16

State & Local Government

Room 214, Cross Building, 1:00 p.m.
Tel: 287-1330

LD 360 - An Act to Amend the Androscoggin County Charter

LD 371 - An Act to Address Certain Local Zoning Ordinances

WEDNESDAY, MAY 17

Veterans & Legal Affairs

Room 437, State House, 9:00 a.m.
Tel: 287-1310

LD 419 - Resolve, To Initiate a Working Group to Evaluate Solutions for Polling Places at Schools to Protect Security and Accessibility

LD 1917 - RESOLUTION, Proposing an Amendment to the Constitution of Maine To Implement Ranked-choice Voting for Governor, State Senator and State Representative

Note: As of now, the legislative presiding officers have waived the requirement that bills be advertised for public hearing two weeks in advance; therefore, you should check your newspapers for Legal Notices as there may be changes in the hearing schedule. It is not uncommon at this time of the session to have a bill printed one day and a public hearing within a few days. Weekly schedules for hearings and work sessions can be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>.

THURSDAY, MAY 18

Transportation

Room 126, State House, 1:00 p.m.
Tel: 287-4148

LD 209 - An Act to Authorize an Interim Use Trail on the Berlin Subdivision Rail Corridor

LD 404 - Resolve, to Direct the Department of Transportation to Implement the Recommendations of the Mountain Division Rail Use Advisory Council

Hearing of the Week: Psilocybin Healthcare

The Veterans and Legal Affairs Committee will hold a public hearing on LD 1914, *An Act to Enact the Maine Psilocybin Health Access Act* on **Monday, May 15 at 9:00 a.m.** in room 437 of the State House.

The bill, sponsored by Sen. Donna Bailey of York County, creates the Maine Psilocybin Services Act regulating the use, licensure, possession, manufacture, administration, tracking and testing of various species of mushrooms. The bill provides for state level licensing of four related psilocybin activities including: (1) service center, where a client participates in a preparation, administration and integration session; (2) service facilitator; (3) manufacturing facility; and (4) testing facility. Municipal authority to regulate the industry is limited. While communities may adopt an ordinance that imposes reasonable regulations, municipalities may not re-

quire a local license, impose a tax or fee or prohibit more than one service center from operating within municipal boundaries, as long as the distance between centers is greater than 1,000 feet. Reasonable regulations are defined as: (1) conditions on the manner in which products are manufactured; (2) conditions on the manner in which centers provide services; (3) limits on the hours of operation; (4) requirements related to public's access; and (5) limits on where licensed premises may be located. In addition, service centers are prohibited from locating: (1) in unorganized territories; (2) in areas zoned exclusively for residential use; or (3) within 1,000 feet of a public or private elementary or secondary school unless there is a physical or geographic barrier preventing students from reaching the premises or the abutting property had not been previously used as an active school.

Cannabis News...cont'd

Rep. Marc Malon of Biddeford moved ought not to pass since the measure is a buzz kill for cannabis regulations due to vague wording and no case law to back it up. This sparked another round of discussion and a failed attempt to move the question. A sense that there was support for the motion was felt in the room when Chairperson Sen. Craig Hickman of Kennebec County assured the public that he votes based on his conscience and deliberations on the bills before him, rejects any notion otherwise and called for a vote.

The bill was voted out of committee ought not to pass with a minority report of ought to pass as amended. The amendment removes cannabis from the scheduled drugs list in the criminal laws.

With a motion to reconsider the committee's previously recorded and divided ought to pass vote, quick work was made

of LD 555, *An Act to Increase the Number of Mature Plants Allowed for the Home Cultivation of Cannabis*, sponsored by Rep. David Boyer of Poland. Upon reconsideration, the committee unanimously voted to support the printed bill, which increases from three to six the number of mature cannabis plants an adult is authorized to cultivate for personal use.

Another short work session was held on LD 1691, *An Act to Provide Parity in State Energy Rate Relief Payments and Tax Exemptions for Maine Cannabis Businesses*, sponsored by Sen. Matthea Daughtry of Cumberland County. How the measure would be funded was a topic of discussion and committee members wondered what would happen if there wasn't enough money in the fund. It was determined that since the fund has been stable, to the point of being described as "overfunded," the lack of revenue was not going to be a major issue and LD 1691 was voted out of committee with a unanimous roll.

The rest of the bills scheduled for consideration were taken up in two blocks, a technique that seems to be popular this session given the volume of bills printed for review. Among the bills in the first block were LD 365, *An Act to Support Compliance and Establish Graduated Sanctions Under the Maine Medical Use of Cannabis Act*, sponsored by Sen. Ben Chipman of Cumberland County, LD 1391, *An Act to Limit Cannabis Cultivation Licenses to Protect the Cannabis Market*, sponsored by Sen. Teresa Pierce of Cumberland County, and LD 1585, *An Act to Amend Maine's Cannabis Laws to Protect Small and Medium-sized Cultivators*, sponsored by Rep. Bill Pluecker of Warren.

Out of the gate, the committee unanimously voted not to pass on the three bills and further reassured proponents of the initiatives that other bills would be used as vehicles for these proposals.

The last block of bills, six in total, were immediately tabled by unanimous vote for further consideration at a later date.

IN THE HOPPER

Education & Cultural Affairs

LD 1799 - *An Act to Expand Maine's High-quality Early Learning and Care for Children by Increasing Public Preschool Opportunities in Communities* (Sen. Vitelli of Sagadahoc Cty.)

This bill establishes an annual reporting requirement for the Department of Education to report to the joint standing committee of the Legislature having jurisdiction over education matters on the expansion of public preschool programs. The bill also requires the department to: (1) establish a timeline, an implementation plan and incentives to expand publicly funded preschool programming to 30 hours per week or the length of the local school day; (2) establish a working group to explore expansion to full-day preschool; (3) contract with consultants with experience in early childhood education to facilitate mixed delivery publicly funded preschool expansion with school administrative units and licensed child care programs; and (4) establish a professional development and certification stakeholder working group. The bill also establishes a commission to study and make recommendations on aligning governance and blending and braiding funding in early care and early childhood education systems. No later than March 1, 2024, the commission is required to report back to the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing Committee on Health and Human Services.

Environment & Natural Resources

LD 54 - *An Act to Require Compliance with Natural or Agricultural Resource Protection Ordinances* (Sponsored by Rep. Lee of Auburn)

This bill requires that a housing structure allowed under municipal zoning ordinances due to the enactment of PL 2021, c. 672 (LD 2003) and built after October 1, 2023, comply with municipal ordinances

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

adopted before April 27, 2022, and designed to protect natural and agricultural resources.

LD 1645 - *An Act to Reduce Plastic Packaging Waste* (Sponsored by Rep. Gramlich of Old Orchard Beach)

This bill provides that, beginning January 1, 2025, a person may not sell, offer for sale or distribute for sale in Maine a product using prohibited plastic packaging, which is also defined in the bill and generally includes packaging that contains nondetectable pigments and plastic bottles that are composed wholly or partially of polyvinyl chloride and polyethylene terephthalate. The Department of Environmental Protection may adopt major substantive plastic packaging satisfying statutorily specified criteria for prohibition.

Health Coverage, Insurance & Financial Services

LD 1832 - *An Act to Require Reimbursement of Fees for Treatment Rendered by Public and Private Ambulance Services (Emergency)* (Sponsored by Rep. Cyrway of Albion)

This emergency bill requires an ambulance service to be reimbursed for the cost of treating a person, regardless of whether the ambulance service transports the person to a hospital.

Much To Do About GA ...cont'd

term rentals, a booming housing market, and the increasing costs of necessities are all impacting the GA program. In 2023, state reimbursement under the GA program jumped to \$23 million, increasing the combined state and municipal expenditure to an all-time high of \$32 million. These figures do not include the federal funds that were used to provide emergency housing during the pandemic.

In addition to reducing the burden placed on the property taxpayers, the increase in state reimbursement will help to offset the cost of administering the program which is currently solely borne by the property taxpayers.

Support for LD 1664 came not only from organizations advocating for the interests of Maine's most vulnerable residents, but also from the mayors of Portland and Lewiston who traveled to Augusta to support the initiative.

Mayor Kate Snyder, testified that Portland provided GA to nearly 3,800 in 2022 resulting in a 345% budget increase due to "an extraordinary increase in individuals' and families' need for emergency shelter." Mayor Carl Sheline, spoke of the "crushing strains" being placed on the city of Lewiston, as well as other service center communities that are associated with the increasing growth in the homeless population and asylum seekers.

In South Portland, the issues are similar, as city manager Scott Morelli focused his testimony on how the pandemic and recent housing crisis has exposed weaknesses in the GA program and a need for those underlying issues to be resolved.

To that end, the Association's more complex GA bill, which also received a hearing last Friday, seeks to address some of the issues raised by the municipal officials entrusted to administer the program. That bill, LD 1732, *An Act to Expand the General Assistance Program*, was sponsored by Rep. Michele Meyer of Eliot.

The concern among municipal administrators is that while the program, which was once a resource of last resort, has morphed into a program that is necessary to supplement other state and federal assistance programs, the laws and rules guiding

the program's implementation have not kept up with the evolving environment. The changes proposed in the bill seek to modernize the program by addressing accountability and resources.

With respect to accountability, the bill requires municipal officials who are responsible for administering the program to receive training within 120 days of appointment or election to that office. This bill also requires the implementation of after-hours emergency assistance procedures during regular municipal office hours and amends the "municipality of responsibility" statutes to shift the costs of providing aid more fairly among all communities. These changes will thereby relieve the pressures placed on municipalities that host accommodations and services, such as hotels, shelters, and nursing homes.

In exchange, however, the bill seeks more adequate reimbursement from the state. In addition to increasing the state's share of the direct aid provided, the proposal seeks reimbursement for a portion of administrative expenses and for the costs associated with providing temporary housing, interpreter services and above maximum limit emergency assistance.

Since municipal officials are required by state statute to aid when individuals are in need, regardless of the time of day, the bill requires the state to provide in-person technical assistance 24 hours a day. To better inform municipalities of the requirements of the program, the bill also requires the state to provide a written response within 24 hours of a municipal program-related inquiry, including a reference to the statute or rule used to issue the guidance. Finally, the bill directs the state to provide access to a statewide database to ease the administrative functions of the program.

The committee also accepted testimony on LD 1426, *An Act to Secure Housing for the Most Vulnerable Maine Residents by Amending the Laws Governing Municipal General Assistance*, sponsored by Rep. Kristi Mathieson of Kittery and LD 1675, *An Act to Amend the Laws Governing the General Assistance Program Regarding Eligibility, Housing Assistance and State Reimbursement and to Establish a Working Group*, sponsored by Rep. Michael Brennan of Portland.

While municipal officials support many elements of both bills, each contains a provision seeking to amend the period of eligibility, which raises concerns for municipalities. Under current law, municipalities can provide up to one month's worth of assistance. As proposed in LD 1426, the amount of aid that can be provided for rental assistance is one year and under LD 1675 the amount of aid, in general, that can be provided is increased to six months.

Although the provisions are presented to municipal officials as an option rather than a mandate, there is nothing in the bill to safeguard municipalities from a state level claw back of reimbursement should a recipient become ineligible for assistance during the extended timeframe. While the ability to provide assistance over a longer period of time could serve as a tool for ensuring the acquisition of permanent housing, without provisions in statutes to protect municipalities, the investment may present too high of a risk or too large a financial burden for property taxpayers to shoulder.

There appears to be a fair amount of interest among members of the committee to both increase reimbursement to municipalities as well as to refine the program. However, we will need to wait to see which path is selected when the committee meets to work the bills. At this time, work sessions have not been scheduled.

LEGISLATIVE BULLETIN

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IN THE HOPPER (*cont'd*)

Judiciary

LD 1904 - An Act to Enact the Maine Fair Chance Housing Act (Sponsored by Speaker Talbot Ross of Portland)

This bill establishes the Maine Fair Chance Housing Act, the purpose of which is to ensure that a person is not denied housing based solely on the existence of a history of criminal convictions. This bill prohibits a housing provider from considering an applicant's criminal history until after the housing provider determines that the applicant meets all other qualifications for tenancy. A person who is aggrieved by a violation of the Maine Fair Chance Housing Act by a housing provider may file a grievance with the Maine Human Rights Commission and, if it is a violation by a private housing provider, may bring a civil action in court.

State & Local Government

LD 360 - An Act to Amend the Androscoggin County Charter (Sponsored by Sen. Timberlake of Androscoggin Cty.)

This concept draft bill would address the Androscoggin County charter.

LD 371 - An Act to Address Certain Local Zoning Ordinances (Sponsored by Sen. Timberlake of Androscoggin Cty.)

This concept draft bill would address certain local zoning ordinances.

Transportation

LD 209 - An Act to Authorize an Interim Use Trail on the Berlin Subdivision Rail Corridor (Sponsored by Rep. Bell of Yarmouth)

This concept draft bill would authorize interim use of a recreational

trail on the Berlin Subdivision Rail Corridor.

LD 404 - Resolve, to Direct the Department of Transportation to Implement the Recommendations of the Mountain Division Rail Use Advisory Council (Sponsored by Sen. Bennett of Oxford Cty.)

This resolve directs the Department of Transportation, subject to available funding resources, permitting and municipal agreements, to remove miles of state-owned inactive existing railroad track in the town of Standish and Fryeburg and replace the track with an interim 10-foot-wide bicycle and pedestrian trail, surfaced with either pavement or stone dust on the existing rail bed.

Veterans & Legal Affairs

LD 419 - Resolve, To Initiate a Working Group to Evaluate Solutions for Polling Places at Schools to Protect Security and Accessibility (Sponsored by Rep. Rielly of Westbrook)

This resolved directs the Secretary of State to convene a working group, including a representative from the Maine Town and City Clerks' Association, as well as MMA to: (1) identify the number of schools in Maine currently being used as a polling place; (2) exam and identify practices in other states; (3) evaluate the criteria necessary to protect the security of students, teachers, staff and voters where schools serve as polling places; and (4) identify possible changes to statute to protect voter accessibility and safeguard the security of schools used as a polling place. No later than January 1, 2024, the secretary is further directed to submit a report to the Joint Standing Committee on Veterans and Legal Affairs, which is authorized submit legislation.