

LEGISLATIVE BULLETIN

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Municipalities Are Hamstringing Housing & Emergency Shelters

Vested Rights. In a paradox of paradoxes, the 80's era reboot of entirely disproven and much maligned "trickledown economics" theory has infected the democratic view of housing policy. Forget all the housing starts data to the contrary, municipalities and their retroactive application of land use ordinances are rampant and consistently blocking developers from providing the public with the housing they want and need, according to the cochair of the Housing Committee, Rep. Traci Gere of Kennebunk. These statements were made as the committee held a sixth work session on LD 772, *An Act to Establish a Process to Vest Rights for Land Use Permit Applicants*, sponsored by Sen. Mathew Pouliot of Kennebec County and can be viewed beginning at 2:21 here: <https://legislature.maine.gov/audio/#216?event=90845>.

"Vested rights" "is a judicial construct designed to provide individual relief in zoning cases involving egregious statutory or bureaucratic inequities. In part, it involves the equitable concept of detrimental reliance." The factors of this test are: (1) good faith; (2) due diligence in attempting to comply with the law; (3) the expenditure of substantial, unrecoverable funds; (4) the expiration without appeal of the period during which an appeal could have been taken from the issuance of a permit; and (5) insufficiency of evidence to prove that individual property rights or the public health, safety or welfare have been adversely affected by the use of a permit.

Members of the Housing Committee would like to remove the judicial test and drop the agnostic fair review process and instead drop an untested right into a statute triggered by a municipal notice of a land use application. So much for good faith and due diligence, not to mention the Maine Constitution.

Accepting earlier testimony that a 900-unit housing development was halted unfairly via retroactive zoning, Rep. Gere called on Pierce Atwood attorney Elizabeth Frazier representing the Maine Real Estate & Development Association (MEREDA) to provide additional commentary to the committee and offer amendments. MEREDA advised that the original intent of the bill was to stop the clock on ordinance adoption at the point when a developer submits an application and legislators should "notwithstanding" all other related statutes, including the Maine Constitution, if necessary, to prohibit municipalities from adopt-

ing any ordinance that would impede development. Frazier expressed that she is confident that MEREDA, represented by Pierce Atwood, can defeat the will of the people who enacted the home rule provisions in Maine's Constitution and is willing to defend the challenge.

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The Fate of LD 1

LD 2102, *An Act to Support Municipalities by Repealing the Law Limiting the Municipal Tax Levy*, sponsored by Sen. Teresa Pierce of Cumberland County, received a public hearing on Tuesday before the State and Local Government Committee.

The Maine State Economist, Amanda Rector, testified in support of the bill on behalf of the Administration due to the administrative burdens placed on municipalities and the lack of evidence that the goals of the program had been achieved.

Municipal officials also testified in support of the repeal.

As is the case, opponents were quick to recite the over-used "out of control government spending" sentiment, all the while enjoying the services provided by state and local governments, and questioned transparency in the municipal budgeting process.

The Maine County Commissioners Association was agnostic about its municipal partners receiving a lift of the LD 1 cap process and instead submitted "neither for nor against" testimony asking for parity. The amount of property tax revenues used to fund county jails, over 80% of which is funded via assessments on the property owned by individuals who often have no control over the county budget development process, is tied to a defined LD 1 limit or a set percentage unless county leaders can demonstrate the reasons why they are unable to operate under those growth measures. The intent for the restrictions is to force the state to play a more active monetary role in the costs of incarceration and delivery of state required services.

The committee requested clarifying information regarding the levy limits and the repeal's consequences, likely to result in a robust work session, which has not yet been scheduled.

Municipalities Are Hamstringing cont'd

According to MEREDA's website communities like Portland, Brunswick, Yarmouth, Freeport, Scarborough, South Portland, and Falmouth with inclusive zoning requirements are avoided by developers, with 47.9% claiming it increases their costs too much while stating nationally 87.5% of developers avoid working in jurisdictions with rent control. Believing in the fallacy that building more housing will make more housing available for those who cannot afford it, in a trickledown fashion these developers see the "soft costs" associated with regulation that protect the group rights of communities as the barrier.

As with many public hearings, the rest of the story regarding why that particular large-scale development was temporarily halted was conspicuously absent. In fact, the community in question is actively investing in the appropriate hydrological watershed assessment to clarify developable and undevelopable areas and outline potential mitigation strategies not only to comply with federal Clean Water Act requirements but also to minimize the impacts on neighboring areas. Rather than a giant 900-unit market rate only project, the community wants the development placed in balance with the watershed needs and address barriers for the provision of housing in the area that serves a range of households and income levels.

Exactly what the Legislature desires. Shame on you, municipalities.

A better alternative to address MEREDA's concerns would be to cap the profit returned to developers to invoke such "vested rights" for their "benevolent projects" to 10%. Then perhaps they would be incentivized, at a bare minimum, to build affordable public goods for the benefit of stripping the tools that prevent the further displacement of marginalized neighborhoods targeted for private equity venture investment. This devastating process of displacement is now being played out across the U.S. causing communities like Atlanta and Alexandria to re-zone to protect their most vulnerable communities from gentrification drives. The development activities in these communities have resulted in the physical displacement of people and required a shift in zoning policies and use of limited local revenue to keep these neighborhoods safe and affordable for their residents.

No wonder municipal home rule, which is the only tool that protects group rights in these instances, is a target for developers preferring to seek the path of least agency and limited resistance to gentrification.

The point, as Rep. Gere put it, is to avoid going to court and the expense for these beleaguered developers. While as of Tuesday, the committee which previously voted unanimously to advance and then reconsider LD 772 still has not held a second vote on the bill, you can bet limiting real estate investment earnings to a capped limit will not be included as a balanced alternative.

If only the section of statute this bill proposes to change applied to just "affordable" or even remotely "attainable" housing, then the solution would address the issue. But alas, that is not the case.

Has your community adopted the new state statutes regarding shoreland zoning into your local ordinances? Too bad, because the more liberal elevation standards that might allow an individual to move their property up and out of the recently redrawn flood plain along tidal ways without triggering the 30% expansion limits, may be out of reach for property owners. Now, the ability to protect this investment will have to be vetted only under your current ordinance.

Has an offshore wind project been proposed, or a large transmission line scoped a path through your municipal harbor or a liquid natural gas pipeline through your back 80 to service another community? Do you have an ordinance to prohibit it? Too bad if you don't, you'll have to hope that the state will have your community's interest in mind when they approve the permits that they retroactively create to address it.

Mapping your community for resilience planning and potentially carving out "working waterfront" properties that are in danger of becoming targets for "highest and best use" projects? Forget about it.

Benevolent and brow beaten developers will be submitting their applications now, stopping the clock on your local ability to prohibit an outsized development that fundamentally changes the way your community desires to grow and change if LD 772 is advanced.

Emergency Shelter Moratoriums. In a rather more undecided but still majority fashion for the current legislative climate, the House of Representatives passed an amended version of LD 2146, *An Act to Prohibit Certain Municipalities from Adopting Moratoria on Emergency Shelters*, sponsored by Rep. Grayson Lookner of Portland. With a vote of 74 yeas, 58 nays, and 18 absent, the House advanced a restriction on municipalities with populations above 20,000 residents from enacting moratoria on proposed emergency shelters, regardless of the reasons.

Now it will face a vote in the Senate.

While the measure does not require municipalities to approve or provide the shelters, it restricts the ability to pause proposed re-development and seek funding to address life safety issues, or to find a location closer to services needed by shelter users, including easy access to transportation links that aid in connecting individuals to more permanent solutions through wrap around care. These are some of the reasons that have triggered moratoria in the past.

These issues are even more acute for "low barrier" shelters which provide shelter to individuals in active substance use often with significant co-occurring disorders that make them less palatable near schools in "drug free" zones and out of immediate connection to resources to help lift them out of the cycles of substance use and into stable housing.

Impacted communities include Portland, Lewiston, Bangor, South Portland, Auburn, Biddeford, Scarborough, Brunswick, Saco, Westbrook, with Augusta and Windham soon to join the ranks. While representatives from all these communities support

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HEARING SCHEDULE

For the week of February 26, 2024

Note: What follows is a schedule of public hearings which were known to us at the time of this publication. To sign up for direct committee notifications of meetings, hearings and work sessions, you can choose which committees you would like to hear from at this link: <https://lists.legislature.maine.gov/sympa>. Also, you should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules for hearings and work sessions can also be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>.

MONDAY, FEBRUARY 26

**Appropriations & Financial Affairs
Room 228, State House, 10:00 a.m.
Tel: 287-1635**

LD 2214 – Governor's proposed supplemental FY 2024-2025 budget, in conjunction with the Joint Standing Committee on Health & Human Services:

- Maximum Levels of General Assistance (Part II)
- GA Reimbursement (Part 00)

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

LD 2007 – An Act to Advance Self-determination for Wabanaki Nations

TUESDAY, FEBRUARY 27

**Appropriations & Financial Affairs
Room 228, State House, 2:00 p.m.
Tel: 287-1635**

LD 2214 – Governor's proposed supplemental FY 2024-2025 budget, in conjunction with the Joint Standing Committee on Health & Human Services:

- Crisis Receiving Center (Part KKK)

**Health Coverage, Insurance & Financial Services
Room 220, Cross Building, 1:00 p.m.
Tel: 287-1314**

LD 2220 – An Act to Prohibit Insurers from Using Credit Information as a Factor in Certain Insurance Practices

**Judiciary
Room 438, State House, 1:00 p.m.
Tel: 287-1327**

LD 2215 – An Act to Implement the Recommendations of the Right to Know Advisory Committee Regarding Public Records Exceptions

**State & Local Government
Room 214, Cross Building, 1:00 p.m.
Tel: 287-1330**

LD 1983 – An Act to Establish the Maine Buy American and Build Maine Act

WEDNESDAY, FEBRUARY 28

**Appropriations & Financial Affairs
Room 228, State House, 1:00 p.m.
Tel: 287-1635**

LD 2214 – Governor's proposed supplemental FY 2024-2025 budget, in conjunction with the Joint Standing Committee on Health Coverage, Insurance & Financial Services:

- Maine Mass Violence Care Fund (Part N)

2:00 p.m.

In conjunction with the Joint Standing Committee on Judiciary

THURSDAY, FEBRUARY 29

**Appropriations & Financial Affairs
Room 228, State House, 1:00 p.m.
Tel: 287-1635**

LD 2214 – Governor's proposed supplemental FY 2024-2025 budget, in conjunction with the Joint Standing Committee on Transportation

2:00 p.m.

In conjunction with the Joint Standing Committee on Criminal Justice & Public Safety:

- Disaster Recovery Fund (Part Q)

FRIDAY, MARCH 1

**Appropriations & Financial Affairs
Room 228, State House, 9:30 a.m.
Tel: 287-1635**

LD 2214 – Governor's proposed supplemental FY 2024-2025 budget, in conjunction with the Joint Standing Committee on Energy, Utilities & Technology

10:00 a.m.

In conjunction with the Joint Standing Committee on Inland Fisheries & Wildlife

11:00 a.m.

In conjunction with the Joint Standing Committee on Marine Resources

1:00 p.m.

In conjunction with the Joint Standing Committee on State & Local Government:

- Community Resilience Partnership (Part EE)
- Maine Office of Community Affairs (Part DD)
- Office of New Americans (Part FF)

SUBMITTING TESTIMONY AFTER THE PUBLIC HEARING

(particularly for carryover and supplemental budget bills)

As many of you have likely noticed, legislative committees are currently working through several concept drafts bills that have already had public hearings but were carried over into the Second Regular Session to allow more time for bill sponsors to develop the language necessary to advance the initiative. Even after a public hearing, members of the public can submit written testimony and comments on proposed language to a concept draft. This can be done online at <https://www.mainelegislature.org/testimony/>. When you get to the webpage, select "public hearing," then select the committee, for example, "Criminal Justice and Public Safety." From here, you will need to find the date of the original public hearing for the bill you wish to comment on (not the new work session date). Once you find the date, click on it and you will see a list of bills that had public hearings on that day, and you can select the bill from that list. The committee clerks, as well as MMA staff, do our best to get written materials into the hands of committee members prior to work sessions. And of course, when a work session allows for public comment members of the public may also show up in person to speak or request a zoom link from the committee clerk.

Municipalities Are Hamstringing cont'd

the measure, some individuals expressed legitimate targeted concerns and the message that such an action sends to Maine's population centers that their property taxpayers will continue to shoulder the lion's share of the costs associated with responding to the Maine's homelessness crisis.

Rather than a stick which perpetuates the current reality forcing people to separate from any of their direct support networks in order to find service elsewhere—a better carrot would be to fully fund the necessary General Assistance training and education requested from municipalities at both the state and local levels and reimburse statewide 90% of the cost for the activity. This would empower all municipalities to respond to the emergency of homelessness where and when it happens with financial assistance.

The current legislative message on that front, like several sensible evidence-based municipal requests, remains to lan-

guish on the appropriations table with only more duties devoid of funding hanging like a Damocles sword above the heads of local officials.

While the “trickledown” effect of these efforts will not house more vulnerable, marginalized, or working or middle-class individuals, and is decidedly yellow in color, hopefully the effect for municipal officials reading this will boil up red to their legislative “partners” who would benefit from a firsthand understanding of the operations of municipal government.

Better yet, remind them that municipal planning work and service delivery is a direct result of the priorities they—the Legislature—continue to shift around, without support, and maybe find out which ones should be protected first: human rights, public safety, environmental degradation, clean water, turtles and salamanders, forests, agriculture, working waterfronts, walkable cities, or...developer profit.

Administrative Death By Porta Potty

On Tuesday, the State & Local Government Committee held a public hearing on LD 2201, *An Act Regarding the Approval for the Placement of Portable Toilets*, sponsored by Sen. Jim Libby of Cumberland County, in response to a change to the subsurface wastewater disposal regulations that went into effect in September 2023.

In the newly amended rule, the Department of Health & Human Services (DHHS) added the definition of a temporary portable toilet to the list of facilities subject to state regulation and added restrictions on its use. If a portable toilet, also known as a porta potty, is to be used for longer than seven days, written approval from the local plumbing inspector (LPI) needs to be obtained.

The bill sponsor indicated that the intent of the rule was to prevent people from using a portable toilet as a replacement for indoor plumbing but that there are other long term uses. For example, there are many camps on the edge of lakes and ponds in Maine that have sensitive septic systems or rely solely on holding tanks, and utilizing this type of service to mitigate the overuse of sensitive plumbing systems is an environmentally conscious and responsible thing to do. Many communities with public beach access also use these temporary options during the seasonal months for sanitation and convenience.

As a compromise, Sen. Libby presented an amendment to the bill at the hearing that would change the seven-day threshold to six months before requiring LPI permission. The proposed extension would maintain the intent of the regulation but recognize the need for flexibility with seasonal usage.

Pottys-R-Us, a weekly portable toilet rental service business, testified in support of LD 2201 on the basis that they have never needed permission to set a potty before, concerns that this could put an unrealistic workload onto town staff, and the inability to

gauge how this rule will affect their business. The testimony also confirmed the alternative uses that Sen. Libby mentioned and expanded on that list to include many more examples of how these weekly serviced units have been used in Maine. The company also voiced concerns over the possible alternative if people were not being environmentally responsible by renting portable toilets.

When the rule first passed, Pottys-R-Us contacted DHHS and found there were two reasons for the change. The first was the temptation associated with using a short-term alternative in lieu of the proper installation of indoor facilities, as mentioned earlier in this article. The other reason was because of a death perceived to be caused by the overuse of porta potties.

While stifling a few giggles, committee members seriously questioned whether the blue water found in porta potties posed an environmental risk if it were to leak. Pottys-R-Us explained that the water is mostly a colored deodorizer used for purposes of odor mitigation and aesthetics, and as required by law is very mild in nature. The generated waste is dumped at sewer treatment plants, treated along with other wastewater flow before being discharged, and as a result is not allowed to contain harsh or corrosive chemicals.

Regarding the proposed six-month amendment, they are not in favor of any threshold being imposed on the placement of portable toilets.

The Maine Municipal Association and the Association of General Contractors also provided testimony in support of LD 2201 with the lone opposition coming from the Maine CDC. A work session has not yet been scheduled but there will be more to come on this feculent topic.

Winner, Winner, Chicken Dinner

Fingers have been crossed for some time now, anxiously waiting to see if Governor Mills would sign LD 1967, *An Act to Support Municipal Franchise Agreements*, sponsored by Rep. Melanie Sachs of Freeport. It's been a tense ride with all the misinformation swirling around the State House, but municipal officials will be elated to learn that the governor has let this bill become law without her signature.

A sincere thank you goes out to the governor, as well as the bill sponsor and municipal leaders who contacted their legislators to correct the facts and help get this long overdue measure passed.

The law, which will be effective 90 days after the final adjournment of the Legislature, accomplishes the following:

No loss of right-of-way rental fees. Expands the assessment of franchise fees to video service providers (VSP) to ensure municipalities continue to receive sufficient compensation for access to public rights-of-way. Franchise/rental fees paid to municipalities are decreasing as traditional cable television service is being replaced by new VSP channel selection applications. According to data provided by Charter in their testimony, over \$8.6 million in franchise fees were paid to Maine towns by Charter/Spectrum alone in 2019.

Quarterly, not annual franchise fee payments. Provides that cable operators and VSPs will no longer be able to keep collected franchise fees for up to a year in their bank accounts earning interest that is not provided to the municipality.

Local control maintained. Retains municipal control over the commercial use of the public rights-of-way.

Dispute resolution process. Establishes a dispute resolution process, overseen by the Public Utilities Commission, for franchise non-compliance issues that cannot be resolved at the local level with no cost to consumers.

Guaranteed build-out. Guarantees build-out provisions for broadband and video services.

Upgrade cost savings. Avoids shifting costs for upgrading cable company high density transmission equipment to municipalities, which saves thousands of dollars for each community that televises public meetings.

Maintaining PEG channels. Requires that public, education, and government (PEG) access channels be provided in their normal channel locations on streaming applications. Capital and staffing costs for televising and internet streaming of municipal and school meetings will not be shifted to local tax rolls.

Corrects errors. Corrects an error in the state statute allowing for exclusive, non-competing cable franchises.

Expands consumer protections. Extends the consumer protection provisions required of cable operators to other VSPs providing the same level of services over the public right-of-way.

HOPPER

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.

Appropriations & Financial Affairs

LD 2225 – *An Act to Provide Funding to Rebuild Infrastructure Affected by Extreme Inland and Coastal Weather Events (Emergency)* (Governor's bill) (Sponsored by Speaker Talbot Ross of Portland)

This emergency bill transfers \$50 million from the Maine Budget Stabilization Fund to the Department of Transportation for municipal, state or regionally significant infrastructure adaptation, repair and improvements that support public safety, protection of essential community assets, regional economic needs and long-term infrastructure resiliency. The bill provides that eligible project types may include working waterfront infrastructure, culverts, storm water systems,

water system upgrades and other interventions that support reducing or eliminating climate impacts, especially coastal and inland flooding.

Judiciary

LD 2215 – *An Act to Implement the Recommendations of the Right to Know Advisory Committee Regarding Public Records Exceptions* (Reported by Rep. Moonen of Portland)

Along with changing rules regarding certain state activities not impacting municipalities, this bill implements statutory changes recommended by the Right to Know Advisory Committee after reviewing certain existing public records exceptions in Title 22. Of specific municipal interest, the bill replaces the provisions of law governing the confidentiality of records and information under the Maine Medical Use of Cannabis Act.

The bill specifies the following: (1) Information that identifies a qualifying patient, a visiting qualifying patient or a registered patient is confidential and may not be disclosed by the Department of Administrative and Financial Services,

Tax Acquired Property, Active Duty Excise Tax & Working Waterfront

On Wednesday, the Taxation Committee convened to receive a presentation from Maine Revenue Services (MRS) summarizing the findings of the Working Group to Study Equity in the Property Tax Foreclosure Process. Stemming from the 2023 U.S. Supreme Court case, *Tyler vs Hennepin County*, LD 101, *An Act to Return to the Former Owner Any Excess Funds Remaining After the Sale of Foreclosed Property*, was enacted and in part “directed Maine Revenue Services to establish a working group to study equity and other issues in the property tax foreclosure process and prepare a report by January 15, 2024, that includes the findings and recommendations of the working group, including suggested legislation.”

The working group involved a wide variety of stakeholders, including a representative from MMA’s Legal Department, and other subject matter experts who created a report summarizing the foreclosure processes, both pre- and post-LD 101 and provided the committee with concrete recommendations, including suggested legislation.

The recommendations: (1) remove re-sale notice and demand requirements; (2) allow municipalities to deduct the costs of improving tax-acquired property from the proceeds of the sale; (3) add rules governing when a municipality is unable to contract or sell a property; (4) include provisions governing when a municipality intends to keep a tax-acquired property; (5) require pre-payment notice before distributing excess sale payments; (6) provide a process for situations when former owner cannot be located; (7) remove provisions providing for quitclaim deed from former owner; (8) clarify and strengthen waiver of former owner’s rights to file title action; and (9) require recorded notice of payment of proceeds. The complete report of the working group can be found on the MRS website at: <https://www.maine.gov/revenue/sites/maine.gov/revenue/files/inline-files/Final%20Report%20of%20the%20Foreclosure%20Working%20Group%2020240115.pdf>

After discussion, the committee voted to send the suggested language to the revisor’s office to draft a bill for the committee’s consideration. Updates on the proposed legislation will follow in the coming weeks.

The committee also held work sessions on two other bills with municipal impacts.

On Tuesday, the committee unanimously voted “ought to pass as amended” on LD 2076, *An Act to Exempt from Excise Tax Vehicles of Active Duty Service Members Stationed Out-of-state*, sponsored by Rep. Michael Lemelin of Chelsea.

As amended, this initiative would repeal the opt-in local ordinance provision allowing municipalities to exempt active duty service members from the local motor vehicle excise tax and instead, make the allowance law. Currently, statute provides the exemption for service members stationed within Maine, but the provision is only allowed for those stationed out-of-state

through a local ordinance. Repealing the ordinance provision and applying the exemption to all active duty service members brings equity to the program and supports those who serve in the U.S. Armed Services. The discussion on the amended language focused solely on clarifying when the required 180-days of deployment must occur, in relation to the vehicle registration cycle, to qualify for the exemption.

Wednesday’s work session focused on changes to the Working Waterfront current use program, as proposed in LD 2162, now titled, *An Act Regarding the Current Use Valuation of Working Waterfront Property*, sponsored by Rep. Daniel Ankeles of Brunswick.

After reviewing a sponsor amendment and having conversations with both industry stakeholders and representatives from MRS, the committee finalized a bill that will increase the valuation reduction percentages of the program from 10-20% (for property used primarily as working waterfront) and from 20-30% (for properties used predominantly as working waterfront); provide an additional 10% reduction for enrolled properties that add deeded access rights; and clarify penalty payment language. The bill also requires the State Tax Assessor to create a bulletin for the program like those for other current use programs and restores the requirement for a biannual program report to the committee of jurisdiction over taxation matters.

Of lingering concern is language that the committee opted to keep in the bill, effectively changing the definition of “working waterfront” to include the small structures used in waterfront operations. While initial language included a parcel’s dwelling, the sponsor and stakeholders recognized that the inclusion was unconstitutional due to the “land” nature of the current use programs, and it was struck.

What remains unknown, is if enacted by the chambers, whether Governor Mills will agree that the inclusion of docks, wharves, and piers is constitutional under the current use program.

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Hard No for On-site Cannabis Consumption

It was clear the Veteran and Legal Affairs Committee had decided the fate of several bills before the actual work sessions were held as they blew through five bills in record time on Wednesday afternoon. The first of municipal interest was LD 1952, *An Act to Allow On-site Cannabis Consumption*, sponsored by Rep. David Boyer of Poland.

The analyst began by providing the committee with an overview of the bill and the testimony received during the public hearing. Testimony in support for LD 1952 was based on the belief that tourists do not have a place to safely consume cannabis once they have come to Maine and purchased cannabis here. The opposition included testimony from public health experts explaining the health risks associated with consumption in confined spaces. MMA also opposed the initiative due to the absence of a provision allowing for local opt-in for on-site consumption, as well as the public health and safety issues raised by other opponents.

Before the committee could hear the report back from the analyst regarding the information requests from the public hearing, committee co-chair, Sen. Craig Hickman of Kennebec County, recognized Rep. Boyer, who admitted that Maine was not ready for this and that he could not see the current body moving this measure forward. With that said, he reluctantly moved “ought not to pass” on LD 1952 and stated his dismay that while 14 other states have been able to make this work, Maine can’t seem to make it happen.

Rep. Laura Supica of Bangor, who shares in the task of chairing the committee, commented that while she supports the motion and at first could not see how this would work, the committee discussions allowed her to visualize the business model for this type of establishment and looks forward to having future conversations on this topic. Piggybacking off those comments, Sen. Hickman claimed that he was not compelled by any testimony in opposition, but as this conversation moves forward in the future, he would love to see existing laws expanded to include cannabis restaurants.

As interesting as it is that public health and safety is not found to be compelling, they are thankfully preserved, as the bill was extinguished by a unanimous vote of the committee.

Keeping with the pace, the work session opened for LD 1530, *An Act to Support Patients by Permitting On-site Consumption of Medical Cannabis and Medical Cannabis Products*, sponsored by Rep. Supica, and was quickly moved “ought not to pass.” This bill was also unanimously voted out of committee.

Last up on the committee’s collective work plate was LD 1914, *An Act to Enact the Maine Psilocybin Health Access Act*, sponsored by Sen. Donna Bailey of York County. This proposal would develop a regulatory framework for the medical use of psilocybin for those ages 21 and over. The analyst presented a long list of questions that came up as she was working on this bill.

Sen. Hickman called on BJ McCollister, who testified at the public hearing on behalf of his client, New Approach, and has been involved with these types of policy discussions across the country. The committee asked how long it would take to draft answers to the questions brought forward by the analyst and then gave permission for the analyst and McCollister to work together to gather the answers for a future work session.

At the previous work session for this initiative, the committee focused on the provision of the bill regarding personal use, and again there was confusion as to whether the personal possession language was referring to medical use, or recreational purposes. The analyst and McCollister disagreed on the context based on current language and as a result added that to the list of clarifications and technical fixes they will be addressing.

It seems as though the committee has an appetite to get a bill passed that contains a medical framework regarding this issue, but also wants to do so with careful attention to language to circumvent any unintended outcomes. The meticulous consideration of policy language is appreciated, and the bill was ultimately tabled for discussion at a later date.



**POTHOLES
& POLITICS**

“Potholes & Politics: Local Maine Issues from A to Z” is a podcast about municipalities in Maine and the people and policies that bring local government to your doorstep. Check out our episodes:

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except with the written consent of the patient or pursuant to a court order or a subpoena; (2) Information that identifies a caregiver who is exempt from registration under the Maine Medical Use of Cannabis Act is confidential and may not be disclosed by the Department of Administrative and Financial Services, except with the written consent of the caregiver, pursuant to a court order or a subpoena or when necessary to protect the public from a threat to public health or safety; (3) Personal contact information of a registered caregiver or of an applicant for registration as a registered caregiver is confidential and may not be disclosed by the Department of Administrative and Financial Services, except with the written consent of the registrant or applicant, pursuant to a court order or a subpoena or when necessary to protect the public from a threat to public health or safety. In addition, if the registered caregiver resides at the same address where the registered caregiver engages in activities authorized under the Maine Medical Use of Cannabis Act, the department may disclose that address to a state, county or municipal employee responsible for the administration of the Act or of rules, ordinances or warrant articles authorized under the Act, including a law enforcement officer or code enforcement officer; (4) Personal contact information of a holder of a registry identification card who is an assistant, officer or

director of a registered caregiver, dispensary, manufacturing facility or cannabis testing facility or of an applicant for a registry identification card as an assistant, officer or director of a registered caregiver, dispensary, manufacturing facility or cannabis testing facility or registration certificate for a dispensary, manufacturing facility or cannabis testing facility is confidential and may not be disclosed by the Department of Administrative and Financial Services, except in response to a court order or a subpoena; (5) A final written decision of the Department of Administrative and Financial Services imposing an administrative penalty, ordering forfeiture and destruction of cannabis or suspending or revoking a registry identification card or registration certificate is not confidential. The bill preserves the obligation of the Department of Administrative and Financial Services under current law to provide information to the department's Bureau of Revenue Services for the administration and enforcement of taxes and the requirement in current law that law enforcement officers obtain a warrant before they may require a caregiver, dispensary, manufacturing facility or cannabis testing facility to disclose information that could reasonably identify an individual or require a person who accompanies a patient to disclose information that could reasonably identify a patient.