



**MAINE MUNICIPAL
ASSOCIATION SINCE 1936**

60 Community Drive | Augusta, ME 04330-9486

1-800-452-8786 (in state)

(T) 207-623-8428

(F) 207-624-0129

Testimony of the Maine Municipal Association

In Opposition to

LD 490 - An Act to Provide for a 5-year Automatic Repeal of Agency Rules

February 24, 2025

Senator Baldacci, Representative Salisbury and distinguished members of the State and Local Government Committee, my name is Rebecca Graham, and I am providing testimony in ⁶⁰²⁵¹⁷⁰support of LD 490 at the direction of MMA's Legislative Policy Committee (LPC). Our LPC is made up of individuals from across Maine with municipal officials elected by their peers across Maine's 35 Senate districts representing communities with very different access to available enforcement resources and local capacity.

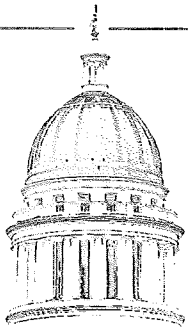
Officials recognize the need for consistent legislative oversight of agency rules and acknowledge the growing concern over mandates being passed to municipal governments through the rulemaking process. These rules, carrying the weight of law, directly affect municipal operations, and their validity and enforceability are crucial. As a result, officials are wary of automatic rule repeals without a safety net to ensure that municipal operations will not be disrupted by agencies failing to meet critical deadlines.

Moreover, each time the rulemaking process is initiated, municipal governments must pivot their focus to evaluate the potential impacts of new regulations on their budgets, staffing, and public outreach efforts. This is a significant burden, diverting resources from essential services to explain to regulatory bodies the potential consequences of proposed changes on local duties.

Take, for example, the years-long process to develop the federal municipal separate storm sewer system permit, a task that spanned more than eight years but is required to be revisited every 5 years. Municipalities spent months drafting a model low-impact development ordinance, only to have it challenged by a petition from the Board of Environmental Protection. Meanwhile, the existing permit remains in effect, protecting municipalities and ensuring that local stormwater professionals meet all prescribed duties. If this bill were to pass, these communities would lose their current protection, left to navigate federal requirements without state assistance and facing potentially crippling local costs.

Given this context, officials understand that while the rulemaking process should be transparent, open, and meaningful, it must not become a mere checkbox exercise without careful consideration of its impact on local governments. At the same time, they also understand the intent behind this bill. In several instances, local governments have witnessed rulemaking being used to impose mandates without the constitutionally required legislative review. A current example is the Department of Corrections' rulemaking, which would compel counties to break financial contracts mid-budget cycle to address facility overcrowding—a crisis driven by a strained judicial system, an overburdened forensic mental health system, and limited state prison capacity, all beyond the control of local taxpayers.

Officials urge you to reconsider the automatic repeal of agency rules. Instead, they call for a more thoughtful approach to the rulemaking process that addresses the increasing trend of shifting significant financial burdens onto local governments, often in conflict with the original intent of rulemaking.



LEGISLATIVE BULLETIN

A publication of the Maine Municipal Association • Vol. XLVII No. 2 • JANUARY 31, 2025

Rule of Law & The Laws of Rules

Take care of the rule of law and the rule of law will take care of you, is a law school mantra—at least in the international context—synthesizing the core belief that sunlight coupled with individual and collective agency to shape policy are necessary to create faith in all governmental systems. Intergovernmental cooperation is most beneficial for everyone when it is established as a durable predictable system, preventing arbitrary use of power, with community at the heart and in protection of universal principles.

Recently, legislative proposals seem to focus heavily on overly descriptive statutory language, assuming that anyone seeking clarity will turn to the statute. But statutes aren't written for the general public—they're crafted for lawyers and judges who must interpret them in legal disputes making additional aspirational language problematic. Adding to the complexity, statutes often direct state agencies to create rules that carry the force of law but receive far less scrutiny.

Beginning in 1996, whenever the Legislature enacts a statute that requires additional rulemaking authority to deliver the policy intent, the statute must declare if the process for adopting the rules will require additional legislative review before they are adopted, known as "major and substantive" or allow the lead agency deference and declare the process "routine and technical." Both processes have a public posting and public comment period, but only major and substantive rules must have initial public hearings and be returned to the legislature for a final review and adoption.

While the legislature has been in recess until this month, state agencies have been busy shaping rules, which have real-world consequences. The two paths to rulemaking have very different public processes that either obscure attention or actively solicit input. It's time to shine a light on the often-overlooked world of rulemaking.

Major & Substantive Rulemaking

Major and substantive rulemaking generally is an extensive process often with multiple stakeholder engagement sessions guiding the input and the development of rules. Depending on the department drafting the rules, proposed changes may need to be approved by an additional board prior to being presented to the Legislature for final approval. While the process can be laborious, ideally an additional stakeholder process provides the drafting agency with evidence that all viewpoints were

considered during the process. The additional legislative oversight before final adoption also requires another public hearing allowing affected individuals and groups to come forward in support of or in opposition to the proposed rule and allows for a process of amendment to that final proposal, which can include additional funding and support for their necessary implementation impacts.

This process is generally preferred when a rule places a fiscal burden on a nonstate group or individual needed to carry out the task—usually local government. Other triggers include tasks where there is significant agency discretion in the interpretation of the enacting statute, a reduction of services or benefits and an increased burden on the public in general. Ideally, the department will have conducted extensive due diligence along the path to major and substantive rulemaking to limit impacts and address concerns prior to the legislative review.

Since rules carry the force of law, they must also be constitutional. MMA has consistently held that any rule or statute that expands or alters local government responsibilities must meet the standard set in Article 9, Section 21 of the Maine Constitution. This means the state must cover 90% of the costs for the task, unless two-thirds of both legislative chambers vote to override the funding requirement. As the constitution directs, the test for

(continued on page 2)

Governor Mills' State of the Budget

On Tuesday evening, for the seventh time since taking office in 2019, Governor Janet Mills addressed members of the Maine State Legislature. The purpose of the meeting was to discuss the merits of her proposed FY 2026 – FY 2027 General Fund budget, which has been printed as LD 210.

The governor's message focused on the need for collaboration across chambers and political parties to chart a path that not only adheres to the constitutional requirement to adopt a balanced budget, but also one that honors the commitments made to Maine people. As all governors do, she landed a few zingers, one suggesting that only Old Orchard Beach had the real estate necessary

(continued on page 6)

Rule of Law & The Laws of Rules...cont'd

placing additional burden or expansion of duty on a local unit of government must be liberally construed, and that includes rulemaking. Rulemaking without a legislative review that creates a cost without the legislative override for constitutional obligations may then be theoretically voluntary for compliance.

Routine & Technical

Routine and technical rules are generally intended to be those that establish guidelines for how an agency operates, or addresses service delivery within statutory guidelines, like setting a fee for service within an allowable range, or internal methods of meeting statutorily prescribed criteria such as what material can be accepted to support a grant application. Generally, they apply only to activities or personnel inside the agency and are not judicially enforceable. This point is an important filter for those impacted by rulemaking. While many rule changes are often submitted as routine and technical, if there is an intent to demand compliance by someone outside the agency because of the rule change, the routine and technical path is not intended to be judicially enforceable, and the major and substantive path should be pursued.

Unlike major and substantive rulemaking, there is no requirement for a public hearing on proposed routine and technical rules, however, there is also no prohibition on doing so, particularly when feedback can often fine tune an internal process like changing a reporting deadline out of line with the ability for another unit of government to have readily available information to report.

Both paths to rulemaking require public notice and copies of the proposed rule with the factual policy basis for the initiative filed with the Secretary of State. Then the agency files a "Fact Sheet" and additional material notifying the legislative committee that has oversight of the agency. In both cases, the proposal for rulemaking must be published in a newspaper of general circulation. If a hearing is desired or required, the rules must be posted 17-24 days before the public hearing and must

allow public comments to be submitted for at least 30 days from the publicized date, but at least 10 days following the public hearing.

What happens with all the comments? Any agency pursuing rulemaking in either process must respond to all comments received though it may consolidate answers to similar points brought up by different submissions. The responses to comments and voting records of agency members involved in the final decision process must be maintained by each agency and available for public inspection. Ideally, those responses are also shared with the individuals who responded as well, though this is not often the case. Available for inspection does not mean readily available.

Glitches in the Matrix

Not all rulemaking proposals are generated by agencies. Increasingly, citizen petitions for rulemaking are providing special interest groups with a backdoor to advancing policy that significantly impacts government operations. Anyone can petition an agency to change or adopt a rule when a signed petition is submitted by 150 or more registered voters triggering the need for rulemaking to begin within 60 days.

These backdoors to policy making are likely to see an uptick when the political path of legislation doesn't provide enough substantive details in the enacting statute and allows for greater agency discretion in the interpretation of authority. When an agency is provided with routine and technical rulemaking authority, there is an equally available "escape hatch" for triggering a public hearing on the proposal at the request of five individuals. Hearings are useful in not only informing the public of intended policy outcomes but also allowing for more public engagement in these overly technical proceedings.

Staff are uncovering more glitches in the rulemaking matrix process, requiring sharper scrutiny despite little public attention. A key example, highlighted in last week's bulletin, involves General Assistance rule changes. Increasingly, technical adjustments labeled as "rou-

tine" carry "major" consequences for local government operations. In the case of General Assistance, a rule proposes limiting allowable emergency shelter costs, with no consideration for different shelter composition and with no direction from statute.

Another example is a proposed Department of Corrections (DOC) rule that was not only labeled as routine and technical but also filed as having no cost on a local unit of government while making significant changes to how a county budgets for and operates its jail facilities, and who can be accepted in a facility based exclusively on an arresting agency.

Proposed changes to the Ch. 1, Detention and Correctional Standards for Maine Counties and Municipalities attempts to enact two mandates via rule. One removes a permissive standard for exceeding a rated capacity that was adopted knowing that our state has a significant number of very old facilities that can meet the spirit of the rule as drafted, but require flexibility to deal with dynamic public safety threats while county government works with their property taxpayers for a built solution. This makes it mandatory, thereby resulting in significant boarding expense mid-budget cycle triggered only by a population number that fluctuates daily.

The proposed change would also create a major barrier for facilities seeking assistance from state partners responsible for many of the root causes of overcrowding. It would require facilities to spend additional local funds or terminate revenue-generating contracts before requesting help from DOC with population management.

Overcrowding is often a direct result of delays in transferring inmates—facilities must wait days, sometimes over a week, for DOC to accept individuals sentenced to their custody. Additionally, the Department of Health and Human Services relies on these facilities to house mentally ill individuals who pose a significant public safety risk while awaiting appropriate placement.

Despite Maine law (M.S.R.A. 25 §1502) clearly stating that these facilities

(continued on page 4)

HEARING SCHEDULE

For the week of February 3, 2025

Note: 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 be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>.

MONDAY, FEBRUARY 3

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

LD 210 - Governor's biennial budget.
1:00 p.m.

With the Joint Standing Committee on Taxation regarding Revenue Sharing, Homestead Exemption Reimbursement, Cannabis Excise Tax.

Criminal Justice & Public Safety
Room 436, State House, 9:30 a.m.
Tel: 287-1122

LD 28 - Resolve, to Rename the Twin Rivers Fire Academy in Fairfield the Duane Bickford Fire Academy

LD 121 - An Act to Include Brush and Yard Debris in the Definition of "Litter"

LD 224 - An Act to Expand the Definition of "Terrorism" in the Laws Governing the Maine Emergency Management Agency

Inland Fisheries & Wildlife
Room 206, Cross Building, 1:00 p.m.
Tel: 287-1338

LD 27 - An Act to Amend and Simplify Certain Inland Fisheries and Wildlife Licensing and Permitting Laws

Veterans & Legal Affairs
Room 437, State House,
Tel: 287-1310

LD 9 - An Act Regarding Campaign Finance Disclosure

LD 118 - An Act to Allow Candidates for Sheriff and District Attorney to Participate in the Maine Clean Election Act

LD 158 - An Act to Direct the Secretary of State to Establish a Date Each Year for Voting by Absentee Ballot

LD 175 - RESOLUTION, Proposing an Amendment to the Constitution of Maine to Ensure That Only Citizens of the United States May Participate in Elections

LD 199 - An Act to Change the Limits on Candidates' Communications with Voters at the Polls

LD 234 - An Act to Eliminate Ranked-choice Voting

TUESDAY, FEBRUARY 4

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

LD 210 - Governor's biennial budget with the Joint Standing Committee on Criminal Justice & Public Safety, regarding county jail funding operations, including funding for medication assisted treatment mandate, concealed handgun permit fee increases.

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

LD 238 - An Act to Protect Emergency Medical Services Persons' Right to Work in Multiple Health Care Settings

Taxation
Room 127, State House, 1:00 p.m.
Tel: 287-1552

LD 15 - An Act to Eliminate the Excise Tax on Camper Trailers

WEDNESDAY, FEBRUARY 5

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

LD 210 - Governor's biennial budget with the Joint Standing Committee on Housing & Economic Development regarding Maine Office of Community Affairs

Health Coverage, Insurance & Financial Services
Room 220, Cross Building, 10:00 a.m.
Tel: 287-1314

LD 178 - An Act Regarding Coverage

for Step Therapy for Advanced Metastatic Cancer

Inland Fisheries & Wildlife
Room 206, Cross Building, 1:00 p.m.
Tel: 287-1338

LD 19 - An Act to Change the Definition of "Oversized ATV" in the Laws Governing the Registration of All-terrain Vehicles

LD 101 - An Act Regarding Public Records and Fees for Requesting Public Records from the Department of Inland Fisheries and Wildlife

Judiciary
Room 438, State House, 9:30 a.m.
Tel: 287-1327

LD 10 - An Act to Add Political Affiliation as a Protected Class to the Maine Human Rights Act

LD 12 - An Act to Amend the Freedom of Access Act to Apply to Legislative Caucuses

LD 152 - An Act to Amend the Freedom of Access Act to Require a Specific Time Frame for Agencies to Comply with Requests for Public Records
1:00 p.m.

LD 83 - An Act Concerning the Filing of Marriage Licenses and the Recording of Intentions as Part of the Electronic Vital Records System

Labor
Room 202, Cross Building, 10:00 a.m.
Tel: 287-1331

LD 54 - An Act to Require Employers to Disclose Pay Ranges and Maintain Records of Employees' Pay Histories

LD 60 - An Act to Allow Employees to Request Flexible Work Schedules

LD 61 - An Act to Regulate Employer Surveillance to Protect Workers

Taxation
Room 127, State House, 1:00 p.m.
Tel: 287-1552

LD 185 - An Act to Expand Opportunities to Invest Municipal Tax Increment Financing Revenues

Rule of Law & The Laws of Rules...cont'd

must always be available for individuals arrested by state or any other local law enforcement, new "routine" standards would force the automatic removal of federal detainees and prohibit new admissions if a facility exceeds its rated capacity—without considering how long that condition has persisted. Given the complexity of crime in Maine, which often requires federal assistance, one could argue this change unfairly targets federally detained individuals simply because the federal

government directly compensates counties for their housing, rather than relying on local property taxes.

More sunlight, public input, review and understanding of the shortfalls plaguing the correctional system is necessary. A backlogged, under-resourced judicial system, understaffed and often unavailable behavioral and mental health hospital alternative, are beyond the capacity for property tax to address. Major and substantive pain deserves more than a routine and

technical response to a single symptom that further hides the systemic problems. However, if we don't routinely pay attention to the overly wonky rulemaking process, the already fragile public trust is further eroded and the real problems become much more expensive.

If you would like to follow the happy trails of rulemaking, proposals are posted to the Secretary of State's Office website every Wednesday located here: <https://www.maine.gov/sos/cec/rules/notices.html>

Election Funding, Polling Places, School Security...Oh My!

The Veterans & Legal Affairs Committee met on Monday, January 27, for their first public hearing of the session. Though many more will follow, the committee heard testimony from interested parties on LD 13, *An Act to Provide Funds Necessary for the Production and Delivery of Election Materials by the Secretary of State and to Reconvene the Working Group to Study Polling Places at Schools*, sponsored by Sen. Craig Hickman (Kennebec County). The Secretary of State's (SOS) Office submitted the bill to address funding concerns surrounding the production and delivery of election materials, as well as a desire to reinstate the working group to study polling places at schools.

In her testimony, Secretary Bellows shared that supply chain issues, increased ballot printing costs, staffing issues, postage and the expense of delivering election materials to each municipality necessitated the implementation of a designated election materials fund, further stating that LD 13 was a path for ensuring elections were fully funded in the future. She pointed to a recent occurrence as an example of the need for this bill. In 2024, due to the number of referendum initiatives, a second ballot needed to be produced—at a cost of approximately \$400,000—with no additional appropriation to cover the added expense. As a result, the election office had to perform some creative accounting to be able to pay their bills and still pay for the extra ballot.

Secretary Bellows further shared that

the discussions held by the working group to study the use of schools as polling places was an important discussion to continue, since no conclusions were made in 2024. She added that the absence of conclusions on this topic was not from a lack of trying but rather the lack of easy answers, as competing interests have been challenging to reconcile.

Rep. Benjamin Hymes (Waldo) noted that the makeup of the proposed working group did not include someone who represented security interests and asked if the SOS was open to adding a member with that experience since this group would be tasked with evaluating security. Secretary Bellows thought it was an extremely relevant idea and was open to that addition and any others.

Sen. Jeff Timberlake (Androscoggin County) questioned the cost of the ballot printing per year and asked if there was an average amount. He later pointed out that the SOS office was somehow able to come up with the money to cover the cost of the second ballot for the November 2024 election, and didn't feel that a separate fund was necessary.

The bill proposal also drew support from the Maine Town & City Clerks Association (MTCCA), League of Women Voters of Maine and Mainers for Modern Elections, who believe that fully funding elections is necessary for democracy. Waterville City Clerk, Patti Dubois, testified on behalf of MTCCA that many communities use schools as polling places which

have presented challenges for both school administrators and election officials. Reinstating the working group to discuss those concerns with all interested parties would be a useful tool for recommending any necessary changes.

Since the Maine Municipal Association's Legislative Policy Committee (LPC) had not met to establish a position on LD 13, advocacy staff submitted "neither for nor against" testimony based on historical support for secure and fully funded elections, but with a promise to update the testimony once the LPC had discussed the proposal.

At their January 30 meeting, the LPC voted to continue the "neither for nor against" position and support the continuation of the working group. Using schools for the conduct of elections brings up several questions ranging from whether there should be a state holiday for elections, to firearm restrictions and ways to integrate voting into a learning experience for students.

It's certainly a topic that warrants further discussion in the eyes of the municipal officials.

There was no testimony offered in opposition to LD 13, which may insinuate broad support for the measure. However, we all know how assumptions go. The discussion at the work session, which is not yet scheduled, will provide a clearer understanding of committee views and insight into the fate of LD 13.

HEARING SCHEDULE (cont'd)

For the week of February 3, 2025

LD 237 – *An Act to Increase the Percentage of Funds Provided to Municipalities Through State-Municipal Revenue Sharing*

THURSDAY, FEBRUARY 6

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

LD 210 – Governor's biennial budget with the Joint Standing Committee on Environment & Natural Resources.

1:00 p.m.

With the Joint Standing Committee on Labor regarding Workers' Compensation Board Administrative Fund.

Agriculture, Conservation & Forestry
Room 214, Cross Building, 9:00 a.m.
Tel: 287-1312

LD 133 – *An Act to Amend the Laws Regarding Nuisance Dogs*

LD 183 – *An Act to Cap Publicly Owned Land Area at No More than 50 Percent of Any County*

Energy, Utilities & Technology
Room 211, Cross Building, 10:00 a.m.
Tel: 287-4143

LD 114 – *An Act to Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority*

LD 241 – *An Act to Authorize the Public Utilities Commission to Approve Rate Adjustments for Low-income Water Utility Ratepayers*

FRIDAY, FEBRUARY 7

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

LD 210 – Governor's biennial budget with the Joint Standing Committee on Education & Cultural Affairs.

1:00 p.m.

With the Joint Standing Committee on Education & Cultural Affairs regarding 55% of K-12 Education.

IN THE 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.)

Agriculture, Conservation & Forestry

LD 133 *An Act to Amend the Laws Regarding Nuisance Dogs* (Sponsored by Sen. Bennett of Oxford Cty.)

This bill amends the definition of "nuisance dog" to include a dog or wolf hybrid that disturbs the peace of an individual by excessive barking, howling or yelping, and the individual is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the excessive barking, howling or yelping. The bill also explicitly authorizes a person to file a written complaint to a sheriff, local law enforcement officer or animal control officer if the person's peace has been disrupted by a dog that barks, howls or yelps excessively.

LD 183 *An Act to Cap Publicly Owned Land Area at No More than 50 Percent of Any County* (Sponsored by Rep. Faulkingham of Winter Harbor)

This bill provides that property owned by a federal, state, county or municipal government, including easements, development and trust rights or other ownership interests, cannot exceed 50% of the land area in each county. Beginning on April 15, 2026, the bill also requires the Department of Agriculture, Conservation and Forestry to biannually submit a report to the joint standing committee of the

Legislature having jurisdiction over public lands including information regarding the percentage of land, both statewide and by county, owned by public entities.

Housing & Economic Development

LD 1 *An Act to Increase Storm Preparedness for Maine's Communities, Homes and Infrastructure* (Emergency) (Governor's Bill) (Sponsored by President Daughtry of Cumberland Cty.)

In response to the \$90 million in damages caused by the winter storms of December 2023 and January 2024, Part A of this emergency bill creates the Home Resiliency Program within the Department of Professional and Financial Regulation, Bureau of Insurance to provide grants to assist owners fund home resiliency projects. The program is funded by the Home Resiliency Fund, which is capitalized with a \$15 million transfer from available balances within the bureau. To be eligible, an individual must own and reside in a home that was not the subject of a previous home resiliency project. The bill further directs the bureau to develop a list of eligible projects, post the list on a publicly accessible website, set maximum grant amounts, and adopt the rules necessary to implement the program. The bill also specifies that the bureau may not award grants before May 1, 2026.

Part B of the emergency bill creates the Safeguarding Tomorrow though Ongoing Risk Mitigation Revolving Loan Fund as a dedicated, non-lapsing fund administered by the Maine Emergency Management Agency (MEMA). The fund is used as the state's match for the Federal Emergency Management Agency disaster and hazard mitigation revolving low-interest loan program, which is designed to support municipal and tribal government infrastructure projects that reduce future storm and other hazards risks. The bill also transfers \$750,000

(continued on page 8)

Governor Mills' State of the Budget...cont'd

to accommodate the many budget-related lines being drawn in the sand.

Throughout her address, she touted the budget initiative to fund 55% of the cost of providing K-12 education services. As calculated by the Essential Programs and Services model, in FY 2026, the minimum cost of educating Maine students is \$2.73 billion, of which the budget appropriates \$1.5 billion as the state's share.

Governor Mills also repeatedly focused on the initiative directing 5% of state sales and income taxes to be distributed to municipalities via the state-municipal revenue sharing program to reduce the burdens placed on the property taxpayers, who are largely left to fund school, county and municipal programs and services. To that end, the budget includes \$273 million and \$283 million in appropriations in FY 2026 and FY 2027, respectively.

Additionally, the budget includes reimbursement for the property tax revenues lost under the homestead exemption program, which is estimated at \$92 million in the first year of the biennium, and \$95 million in the second.

One of the "language" sections of the proposed budget, which provides detailed descriptions of the new initiatives being advanced in the bill, includes directives to fully realize the Maine Office of Community Affairs (MOCA). Part D proposes to transfer oversight of many state programs of direct municipal interest under the MOCA umbrella, including the community resilience partnership, coastal zone management, floodplain management, municipal planning assistance, housing planning, volunteer Maine, code enforcement and Maine climate corps programs. The goal of MOCA is to better consolidate in one location the programs designed to help municipalities implement the state's policy goals.

It is likely that the budget bill will be the avenue to debate the merits of a General Assistance (GA) program proposal that was originally included in the governor's FY 2025 supplemental General Fund budget bill. As described in greater detail in the January 24 Legislative Bulletin, the proposal would limit the availability of GA to provide housing assistance to three

months in a 12-month period and restrict exceeding the allowance of maximum levels of assistance for all other non-housing-related expenses to one month in a 12-month period, which was deemed necessary to reduce state and local costs. It is seemingly the preference of legislators to roll the GA proposal into conversations around the biennial budget. However, by the time the bulletin was printed, that matter had not been decided.

The legislature is clearly ready to tackle the biennial state budget, and to that end have scheduled hearings throughout the month of February. The hearings, which will be held jointly between members of the Appropriations and Financial Affairs Committee and the joint standing committee having jurisdiction over the subject matter being discussed, will begin on Monday, February 3 at 10 a.m. First on the docket will be tax related budget initiatives, including the homestead exemption and revenue sharing programs.

Please stay tuned for updates on the budget's progress.

Taxes, Taxes, Read All About It

As part of the committee orientation for the 132nd Legislature, the Joint Standing Committee on Taxation invited representatives from Maine Revenue Services (MRS) to present an overview of property taxes and related tax relief programs to Maine property owners.

Municipal officials know that establishing a tax rate starts with the local budgeting process. Once town meeting voters or city council members approve a budget, finance officials take out pencils and calculators and get to work calculating the property taxes—less available other source revenues—needed to fund local government services. The formula for calculating a municipal mil rate consists of two components. The adopted budget, divided by the municipal valuation, equals the mil rate. In a perfect world where the pressures placed on school, county and municipal budgets do not increase and values remain neutral, a community's

mil rate would not change.

Recent market fluctuations have caused significant value changes, requiring municipal assessors to revalue tax bases and adapt their practices to reflect those increases as directed by statute. Returning to our perfect world, if values increase and the budget remains neutral, mil rates would typically go down, reflecting little change in the tax bill. However, any increase in the budget, even if the mil rate goes down, will result in an increased tax bill.

To help legislators understand this process, MRS explained a wide range of topics including local budgets and assessments; the authority of assessors and how the role of assessor can be different across municipalities; the "be all, end all" tax year date of April 1; how property taxes are assessed in the Unorganized Territory; current use tax programs like Open Space and Tree Growth; mandated

reimbursements; tax increment financing; personal property taxes and the Business Equipment Tax Refund (BETR) and Business Equipment Tax Exemption (BETE) programs; property tax deferral programs; and a summary of approaches that other states have taken to reduce property taxes in their jurisdictions.

The following questions were posed by committee members and offered insight into what information is necessary to enable legislators to make informed decisions about tax policies that impact the Maine property taxpayers. The following breakdown poses answers to these questions and is a combination of MRS replies to committee members and MMA staff commentary.

Does property tax only go to county, school and municipal operations? MRS staff confirmed that indeed, it does. Additionally, the assessments provided by the county and school departments are

(continued on page 7)

Taxes, Taxes, Read All About It...cont'd

non-negotiable. There is little municipal control or input into county and school department budgets. Those assessments are considered an invoice and placed in the blue payable folder like any other bill. Yes, they must be approved as part of the budget, and it is infrequent that they're not.

However, in recent months, voters have rejected school budgets more often than in recent memory which is the only way the invoice can be amended. With non-negotiable expenses for school and county services, local officials must work diligently to create the municipal portion of the budget in a responsible manner that adequately balances the provision of services without overburdening the taxpayers. It is not an easy task and is not always possible. Municipalities are obligated to pay for educating all students and county jails are increasingly used as de-facto mental health and substance use treatment facilities. It is important to remember this point when raising concerns about rising property taxes. Often, lowering property taxes means cutting or reducing local services.

Why did local valuations jump and how is that impacting tax bills? The pandemic property buying trend began the market frenzy that continues to escalate home prices. If municipal values don't keep in step with state valuations, which are based on sales data, then a municipality's sales ratio changes. MRS auditors work with municipal officials every year to determine the community's sales ratio. The goal is to assess the property to maintain a ratio of 100%, meaning a municipality's valuation is equal to the state's valuation. If that ratio drops from 100% then exemption values drop. Recognizing that assessments will not always hover around 100% of market value, the statutes provide a range allowing for municipal assessment ratios that are between 70% and 110% of the market value.

When a community's assessment falls out of this acceptable range, or as statute requires, every ten years, municipalities must conduct a revaluation of the taxable base. Revaluations triggered by

these conditions have been all over the news recently and are incorrectly being blamed for the increases in property taxes. Remember, the purpose of a revaluation is to bring the ratio back to 100% when compared with the state valuation and returning the exemptions back to full value. When that happens and the tax bill increases, that increase is directly related to additional spending in either county, school, or municipal services.

What happens in smaller, rural communities where sales data are limited, and sometimes inflated, when the ratio is negatively impacted? Are there safeguards for those taxpayers impacted by such a small number of sales? Every community is required to complete an annual sales ratio analysis in coordination with the MRS auditor. For circumstances like this one, MRS may use a longer timeframe of sales to even out the numbers. During all audits, MRS staff are only making calculations using arms-length residential sales and always exclude high and low outlier sales. Recently, those outliers have become the norm. By extending the timeframe of the analysis, from 12 to 18 months for example, the hope is that the figures will be less inflated.

Under what circumstances might a property value change, outside of a reevaluation? A municipality's assessor has independent authority to make and approve assessments. In some communities this is the Board of Assessors, who also serve as the selectboard. In other communities, the municipality contracts with a certified assessor who completes assessing tasks throughout the year but is not a town employee. This assessor may contract with more than one community. In larger municipalities, the assessor is often a full-time municipal official tasked with completing assessment work for that single community. Statutes require that assessors ensure properties are valued at the highest and best use, except for parcels enrolled in current use programs. To guarantee that calculation, assessors consider market fluctuations, improvements to properties, sales data, and other

factors as directed by MRS. It is this daily work that helps municipalities maintain that 100% sales ratio. It is also the reason why one taxpayer's bill may increase a bit this year, but a neighbor's may not.

Our fixed-income seniors are really struggling with increasing property taxes. What tools are available to help them? Personal real estate exemptions, like the homestead and veterans' exemptions, can reduce the taxable value of an eligible taxpayer's property. This reduction results in a lower tax bill and the municipality receives reimbursement for a percentage of the lost tax revenue. Many seniors may qualify for the Property Tax Fairness Credit although it requires filing an income tax return. In addition, the state offers a Property Tax Deferral Program and through the adoption of an ordinance, municipalities may offer a similar program.

MRS also provided information from other states and the approaches they are using, or proposing, to address assessment and taxation fairness. Those approaches include tax limitations; split-rate taxation; a statewide property tax; local authority to impose service charges, targeted local option sales taxes; and regionalization and consolidation of services. It was implied that some of these approaches may be presented to the members of the Taxation Committee in the coming months as possible solutions to the over-reliance on the property tax to fund local government services.

LEGISLATIVE BULLETIN

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

Subscriptions to the *Bulletin* are available at a rate of \$20 per calendar year. Inquiries regarding subscriptions or opinions expressed in this publication should be addressed to:

Legislative Bulletin
Maine Municipal Association
60 Community Drive, Augusta, ME 04330
207-623-8428 Website: www.memun.org

Editorial Staff: Kate Dufour, Rebecca Graham, Rebecca Lambert, Amanda Campbell and Laura Ellis of Advocacy & Communications. **Layout:** Sue Bourdon, Advocacy & Communications



**MAINE MUNICIPAL
ASSOCIATION SINCE 1936**

60 Community Drive
Augusta, ME 04330

Presorted
First-Class Mail
US Postage
PAID
Snowman Group

IN THE HOPPER (cont'd)

from available balances within the insurance bureau to fund the mitigation loan program, transfers an additional \$10 million from the bureau to capitalize the Disaster Recovery Fund, and directs MEMA to adopt the rules necessary to administer the fund.

Part C of the emergency bill establishes the State Resilience Office within the Maine Office of Community Affairs and directs the office to coordinate, assist and collaborate with state agencies, municipalities, tribal governments and regional entities to improve Maine's resistance to weather-related events. The bill also creates the State Resilience Fund to be administered by the office and with revenue used to support data, planning tools, technical assistance and project funding designed to increase the resilience of communities, state and local infrastructure, businesses and other state entities to natural hazards, storm events and other disasters. The office is also directed to adopt the rules necessary to implement the program. In addition to the one-time transfer of \$9.6 million from the available balances within the insurance bureau, the bill provides that beginning with fiscal year 2028, \$1.755 million from available balances within the bureau's special revenue fund be annually transferred to the State Resilience Fund.

Judiciary

LD 152 An Act to Amend the Freedom of Access Act to Require a Specific Time Frame for Agencies to Comply with Requests for Public Records (Sponsored by Rep. Libby of Auburn)

This bill amends the Freedom of Access Act by requiring a public

entity to fully respond to a request within 30 days. Under current law, the entity is required to respond within a reasonable timeframe.

Labor

LD 82 An Act to Amend the Workers' Compensation Laws by Extending Indefinitely the Presumption Applying to Law Enforcement Officers, Corrections Officers, E-9-1-1 Dispatchers, Firefighters and Emergency Medical Services Persons Diagnosed with Posttraumatic Stress Disorder (Sponsored by Rep. Mathieson of Kittery)

This bill repeals the October 1, 2025 repeal of a provision in the Workers' Compensation Act of 1992 that makes a post-traumatic stress disorder resulting from a workplace injury and suffered by a law enforcement officer, corrections officer, E-9-1-1 dispatcher, firefighter or emergency medical services person a rebuttable presumption.

Taxation

LD 283 – An Act to Expand Local Revenues by Including Meals and Lodging Sales Tax Revenue Under the State-Municipal Revenue Sharing Program (Sponsored by Rep. Hepler of Woolwich)

This bill creates an additional revenue-sharing resource for municipalities by establishing the Local Government Hospitality Fund and distributing 1% of meals and lodging sales tax revenue to the municipalities where the tax was collected in proportion to the amount of meals and lodging tax collected by each municipality.