



LEGISLATIVE BULLETIN

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Corner Caucuses and Concept Drafts

Welcome to the broken jungle.

A common theme that seems to be popping up this legislative session is transparency. Individuals from all areas of the state and in varying professional capacities have come to testify on bills of importance to them in the hopes their points will be heard, taken seriously, and start a discussion on policy revisions or propositions that would work for all—in a public forum. Yet, work sessions seem to increasingly involve corner caucuses, where committee members gather by party for discussions behind closed doors before a vote is taken.

Perhaps this is best explained with an example.

Let's assume one committee member offers a motion at a work session and is promptly asked by the chair if this member is choosing to go against their word. Awkward silence is then followed by the committee immediately going into a corner caucus and offering a different motion upon return.

Wait, what? Is this transparent? Hardly. Why aren't these corner caucus conversations happening in the public forum? This begs the question, what is it with these discussions that need to be hidden from public view?

Civility and collaboration among stakeholders to each bill proposal presented is essential to crafting solutions that work for all parties involved. This includes providing ample notice of changes to concept draft bills, printed with very little—if any—details, that are scheduled to be heard, since in some cases the amendment is completely different from the original concept draft title.

This happened in the State and Local Government Committee with LD 371, *An Act to Address Certain Local Zoning Ordinances*, sponsored by Sen. Jeffrey Timberlake of Androscoggin County.

The title and summary for this concept draft indicated this bill would be about local ordinances with no specific references. A mere twenty-four hours before the public hearing was scheduled an amendment was presented that would prevent only the City of Auburn from adopting, enforcing, or imposing an ordinance or charter provision on certain uses within zoning districts. Luckily, Auburn caught wind of the

measure and was able to quickly pull testimony together to present to the committee.

The need for this legislation stems from an apparent squabble between the City of Auburn and Androscoggin County about a new sheriff's office building. Auburn City Manager Phil Crowell called the bill an inappropriate waste

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End of Session Battle for Public Safety?

Last Friday morning the Health and Human Services (HHS) Committee held a public hearing on one of MMA's platform bills, LD 1857, *An Act to Create the Public Safety Health and Wellness Reimbursement Fund to Benefit Public Safety Workers and Volunteers*, sponsored by Rep. Lynn Copeland of Saco. As drafted, the bill would create a reimbursement fund for any public safety agency, regardless of employment structure, to establish a first responder health and wellness program to provide for the high risk cardiac and cancer risk screenings for all first responders. Nationwide efforts from the International Chiefs of Police Association, Fraternal Order of Police, the International Association of Fire Fighters, and the National Sheriff's Association have all focused on how to improve the health outcomes for public safety professionals through suicide prevention efforts and cardiac and cancer health screenings that impact first responders at higher levels than the general public.

Through the dedication of 5% of generated adult use cannabis sales and excise tax revenue, every agency regardless of local capacity, could also shield responders from incapacitating mental, physical, and emotional health issues and guard against the health hazards that accompany the job. Through the statewide provision of advanced training and personal participation in programs that promote physical and

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Corner Caucuses and Concept Drafts...cont'd

of legislator time since all the county needs to do is submit a change of use application to the planning board.

The county on the other hand, is claiming that the city is putting up unnecessary roadblocks to stall the move, essentially keeping the employees of the department in a crumbling and unhealthy environment.

Debate included whether this measure should include an emergency preamble, which seemed to be favored among members of the committee.

The discussion included a lot of finger pointing, with each claiming the other as the more difficult party. One committee member suggested that both parties meet with a third-party mediator to work out the issues standing in the way of the sheriff's office moving from their dilapidated building.

A request was also made of the analyst to provide the committee with a recommendation of where it should go with this bill proposal before closing the public hearing.

The committee held a *gasp* corner caucus and returned to surprisingly open an unscheduled work session on LD 371. Out of the gate, an ought to pass as amended motion was made with the amendment being the addition of the emergency preamble. Before voting the bill out of committee with a divided report, members commented that this situation was appalling, likened it to a school yard fight, and said both parties were to blame and should feel shame.

#Ironic.

End of Session Battle for Public Safety? ...cont'd

mental wellness, such programs in other states have been shown to support first responder safety and wellness, detract from the stigma and dispel the barriers surrounding mental health care.

Speaking in favor of the initiative was Saco Police chief, Jack Clements, who testified on behalf of the Maine Chiefs of Police Association and shared his experience of cardiac risks that would remain unknown until the chest pain began and his career potentially ended. Such tests are not covered by insurance, though in some communities are covered by other health savings programs. Volunteer associations and private EMS providers do not benefit from the same types of screenings either but are covered only when they have a work-related injury at 300 times the cost of the prevention envisioned by LD 1857. Chief Clements shared that his officers benefit from a community with capacity to fund a similar program that he has adopted for his own agency, but he also highlighted that this is not possible for all agencies, and should be.

Joining him in support for the initiative were Chief William Gillespie from the Maine Fire Chief's Association and Rick Petrie of the Maine Ambulance Association who added the need to provide such screenings for volunteers who respond to the same calls and are often reliant on their own private insurance which frequently comes with high

deductibles, while also only funding civilian risk screenings. Consequently, Chief Gillespie added that he suffered a second heart attack due to a blockage not detected following his first heart attack which occurred at a far earlier age than expected by the residents he serves.

Additional testimony was provided by Dr. Benjamin Stone of Sigma Tactical Wellness, who provided significant statistics in support for the less expensive inflammation screenings for police, fire, corrections, EMS, and dispatchers who suffer onset of cardiac related health issues nearly 30 years before their civilian counterparts. The U.S. Centers for Disease Control and Prevention found that law enforcement officers including corrections and firefighters are more likely to die by suicide than in the line of duty, and along with EMS providers are nearly twice as more likely to die by suicide than the general public.

A quick google headline search or conversation with any leader in public safety will provide ample support that Maine tracks with this trend, and has far less available resources for those individuals. As a result, several national public safety agencies have started developing app-based specialist offerings to provide confidential and culturally competent connections to providers, and cancer and cardiac screenings at non-insurance billed negotiated prices. On

average, a single cardiac event can cost anywhere between \$300,000 - \$700,000 in workers' compensation payouts, while annual wellness visits cost roughly \$150 for multiple visits on some platforms, and cardiac screenings between \$399 and \$899 for each individual.

Members of the HHS Committee seemed confused as to why the bill was sent to their committee, though it was originally assigned to the Taxation Committee. They also seemed to rush through their Friday, proceedings frequently cutting off testimony for everyone at the three-minute mark, while also having a significant number of questions that could have been answered by not attempting to distill complex programs and funding issues facing public safety into time limited sound bites.

As the bill was receiving support from multiple legislators, public safety psychologists and the National Alliance on Mental Illness, Maine (NAMI), another call firefighter, Capt. Michael Folsom of Waterville was having a heart attack after being called into the fire station from his personal vacation to repair a municipal alarm system. As the community will continue to support Capt. Folsom and his family through his recovery, the HHS committee will debate the merits of the prevention care asked for in LD 1857 on Tuesday, May 23 at 1:00 p.m.

HEARING SCHEDULE

For the week of May 22, 2023

MONDAY, MAY 22

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

LD 1947 – An Act to Amend the Maine Food Sovereignty Act

Judiciary

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

LD 1629 – RESOLUTION, Proposing an Amendment to the Constitution of Maine to Recognize the Right to Personal Privacy

LD 1969 - An Act to Expand the Use of Funds to Support Land Conservation

TUESDAY, MAY 23

Innovation, Development, Economic Advancement & Business
Room 202, Cross Building, 3:00 p.m.
Tel: 287-4880

LD 1929 – An Act to Protect Consumers by Licensing Home Building Contractors

Transportation

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

LD 1938 – An Act to Require a Reminder for Vehicle Registration Renewal

WEDNESDAY, MAY 24

Education & Cultural Affairs
Room 208, Cross Building, 1:00 p.m.
Tel: 287-3125

LD 317 – An Act Regarding Safe Schools

THURSDAY, MAY 25

Labor & Housing
Room 202, Cross Building, 1:00 p.m.
Tel: 287-1331

LD 1964 – An Act to Implement the Recommendations of the Commission to Develop a Paid Family and Medical Leave Benefits Program

The End Is Near ...but it's far from over.

With a directive for committee work to be completed by May 26 and committees turning their attention to deciding which of the hundreds of bills will be carried into 2024 for further debate, it appears this session may have begun an approach for a landing. As the debates on policy issues move from committee rooms and into the House and

Senate chambers, MMA's advocacy approach will also evolve. To that end, please keep an eye out for action alerts providing time sensitive updates on bills of municipal significance.

Thank you for your ongoing support for the Association's advocacy efforts.

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/>.

IN THE HOPPER

Agriculture, Conservation & Forestry

LD 1947 – An Act to Amend the Maine Food Sovereignty Act (Sponsored by Rep. Faulkingham of Winter Harbor)

This bill amends the Maine Food Sovereignty Act to: (1) require the State, instead of the Department of Agriculture, Conservation and Forestry, to support policies that encourage food self-sufficiency for its citizens and to further encourage self-reliance, personal responsibility and rural economic development protect and respect, by not interfering with, the right to food; (2) establish food sovereignty principles; (3) prohibit the State from enforcing any law or rule, taking an enforcement action or interfering in any way with the activities authorized by a local food ordinance, except those state laws or rules that involve meat and poultry products inspection, registration and licensing; (4) apply the provisions of the Maine Food Sovereignty Act to all local food ordinances, including those in place before the Act was enacted; and (5) specify that the Maine Food Sovereignty Act does not require the use of specific language or definitions in municipal food ordinances. Appropriations & Financial Affairs

(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.)

Criminal Justice & Public Safety

LD 1949 – An Act to Establish an Affirmative Defense to the Crime of Criminal Trespass and Aggravated Criminal Trespass That the Person Was Unhoused and Seeking Shelter (Sponsored by Speaker Talbot Ross)

This bill establishes an affirmative defense to prosecution for the crimes of criminal trespass and certain instances of aggravated criminal trespass when the act is committed by an unhoused person attempting to seek shelter in the dwelling place, structure, place, cemetery or burial ground the person entered or remained in. The bill defines an "unhoused person" as a person who is without shelter or who lacks a fixed, regular, and adequate nighttime residence.

General Fund Budget - Part II

With a Department of Administrative and Financial Services 61-page briefing delivered over the course of several hours on Monday, the Appropriations and Financial Affairs Committee commenced the work of gathering the feedback necessary to inform what might be included in the Part II General Fund budget.

For the appropriate context, a summary of the events to date is warranted.

On March 31, 2023, the Legislature adopted by a majority vote and Governor Mills signed into law LD 424, *An Act Making Certain Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government*, which was sponsored by Rep. Melanie Sachs of Freeport. The bill, now public law, which is referred to as the Part I budget, put into place the baseline funding necessary to ensure the operations of state government as of July 1 of this year.

If the bill had been enacted with an emergency preamble, requiring a two-thirds majority vote from both House and Senate chambers, it would have become effective law upon the governor's signature. However, the partisan divide was strong with respect to the path forward. While the majority party supported the Part I baseline and Part II

new spending initiatives approach, the minority party urged continued discussions to develop a bipartisan budget that would garner the two-thirds majority vote necessary to ensure the ongoing operations of state government.

Since the two-pronged approach prevailed, LD 424 was enacted by simple majority and the Legislature immediately adjourned upon adoption of the budget, making the act effective 90 days after the adjournment date. As a result, the funding and expenditure provisions of the adopted budget are effective as of June 29.

The enacted baseline budget includes funding for many important municipal programs, including \$1.40 billion as the state's 55% share of the cost of K-12 education as calculated by the Essential Programs and Services formula, as well as an allocation of 5% of state sales and income tax to be distributed to municipalities under the revenue sharing program. The act also honors the promises made to gradually increase homestead exemption reimbursement, which will be adjusted to 79% in FY 2024 and 82% in FY 2025. Of relief to municipal leaders across the state, the Part I budget also includes the funding to fully reimburse municipalities for both the implementation costs and lost tax revenue due to the implementation

of the Senior Property Tax Stabilization program.

The appropriators' attention is now on the Part II budget, which is being advanced via LD 258, *An Act Making Unified Appropriations and Allocations from the General Fund... for the Proper Operations of State Government for the Fiscal Years Ending June 30, 2023, June 30, 2024 and June 30, 2025*, which is also sponsored by Rep. Sachs. Because the state will end FY 2023 with \$223 million in the bank and a new revenue forecast shows that FY 2024 and FY 2025 revenues will exceed projections by \$71 million, Governor Mills advanced a change package that highlights the administration's priorities for new spending initiatives and programs.

Hence, the reason for department's aforementioned presentation.

Included in the change package is funding for several housing related initiatives; the proposed replacement of the Pine Tree Development Zone program with the Dirigo Business Incentive program to better promote, support and grow Maine's economy; and a one-time \$50 million appropriation for the School Revolving Renovation fund.

Also of specific municipal interest is a \$31 million proposed appropriation providing financial assistance, in the

(continued on next page)

Last Call! Adult Use Cannabis Municipal Opt-In Reimbursement Still Available

Are you from a municipality that opted-in to adult use cannabis establishments after 2020? If so, then you may be eligible for up to \$20,000 in reimbursement of costs related to opting in.

In 2022 the State established the Adult Use Cannabis Municipal Opt-in Fund, which is funded by excise and sales taxes from adult use cannabis and cannabis products. The Maine Office of Cannabis Policy (OCP) is authorized to use this fund to provide reimburse-

ment to a municipality for qualifying expenses incurred as a result of adopting local regulations and opting-in to one or several types of adult use cannabis establishments. Qualifying expenses include but are not limited to legal fees and costs associated with the drafting and adoption of a warrant article or the adoption or amendment of an ordinance.

A municipality must apply for the reimbursement within three years of adopting a warrant article or ordinance

opting-in to adult use cannabis establishments. If approved, the reimbursement is a one-time amount not to exceed \$20,000.

Municipalities can complete their application at the following website: <https://appengine.egov.com/apps/me/ocp/grantportal>.

Any questions can be directed to Tracy Jacques, Director of Special Projects, at municipal.ocp@maine.gov.

General Fund Budget - Part II...cont'd

form of grants, to emergency medical services entities at immediate risk of failing. The change package also adjusts revenue sharing distributions found in the adopted baseline budget by \$19.5 million in FY 2024 and \$27.5 million in FY 2025 to account for the projected increases in state sales and income tax revenues. As a result, total revenue sharing distributions in FY 2024 and FY 2025 will increase to \$253 million and \$261 million, respectively.

One appropriation not included in the adopted budget, the proposed Part II budget or the change package is any above baseline funding to support county jail operations.

As adopted, state support for counties is \$20.3 million in both FY 2024 and FY 2025, which was the same amount appropriated in FY 2022 and FY 2023. Considering the increasing costs of goods and services, the flat

funding of the state's share of county operations will simply shift additional costs onto the property taxpayers. At the very least, the state's share should be amended to account for inflationary increases. This concern was echoed by the Maine County Commissioners' Association, which called on the state to continue to fund at least 20% of county jail operations. According to Cumberland County commissioner, Stephen Gordon, that would require an additional \$3 million in FY 2024 and \$4.5 million adjustment in FY 2025.

As the committee is on schedule to wrap up its public hearings on the supplemental budget this week, members will soon begin the process of negotiating the funding priorities to be advanced to the members of the House and Senate for consideration.

Updates will be provided as warranted.

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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 and Laura Ellis of Advocacy & Communications.

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IN THE HOPPER (cont'd)

Labor & Housing

LD 1964 – An Act to Implement the Recommendations of the Commission to Develop a Paid Family and Medical Leave Benefits Program (Sponsored by Sen. Daughtry of Cumberland Cty.)

This bill implements a paid family and medical leave benefits program based on the recommendations of the Commission to Develop a Paid Family and Medical Leave Benefits Program. The program provides up to 12 weeks of family leave and up to 12 weeks of medical leave to eligible covered individuals. An individual is eligible for leave under the program after earning at least six times the state average weekly wage in the preceding four calendar quarters prior to submitting an application or if the individual is self-employed and has elected to be part of the program. The maximum weekly benefit amount is capped at 120% of the state average weekly wage. The weekly benefit amount is 90% of the covered individual's average weekly wage. Covered individuals are required to file claims for benefits in accordance with rules adopted by the department administering the program and to provide certification that they qualify for family leave or medical leave. The bill establishes the Paid Family and Medical Leave Insurance Fund to support the program. The funds for administrative costs and payment of benefits come from payroll contributions of no more than 1% of wages shared by employers and employees, except that employers with fewer than 15 employees are not required to make employer contributions to the program. The bill also authorizes employers to provide these benefits through a private plan as long as the benefits for family and medical leave provided to their employees are the same as provided in the program. The bill establishes the Paid Family and Medical Leave Benefits Authority to advise the administrator on the

implementation and administration of the program. The bill requires payroll contributions to begin January 1, 2025 and benefit claims to be processed beginning January 1, 2026. The bill authorizes the Department of Economic and Community Development to conduct outreach with businesses about the paid family and medical leave benefits program. The bill requires the program to be reviewed under the State Government Evaluation Act in 2029.

State & Local Government

LD 1934 – Resolve, to Improve the Coordination and Delivery of Planning Grants and Technical Assistance to Communities in Maine (Sponsored by Rep. Sachs of Freeport)

This resolve directs the Office of Policy Innovation and the Future to review opportunities to improve coordination and implementation of planning grants and technical assistance programs for municipalities and regional planning and development organizations and in the process consult with stakeholders including municipalities and regional planning entities, and coordinate efforts with other state agencies. No later than December 6, 2023, the office must submit its report to the Joint Standing Committees on Appropriations & Financial Affairs and State & Local Government.

LD 1940 – An Act to Promote Consistent Policies within Growth Management Programs in Order to Increase Food Security and Economic Resiliency in Local Communities (Sponsored by Sen. Hickman of Kennebec Cty.)

This bill amends the laws governing planning and land use regulation to encourage municipalities to: (1) ensure charters, policies, codes,



IN THE HOPPER (*cont'd*)

regulations, bylaws and fees align with each other and meet the overall intent of the comprehensive plan approved by the legislative body; (2) develop policies that assess community needs and environmental, food security and economic resiliency effects of municipal regulations, lessen the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets; and (3) in the development of affordable housing, to establish policies that assess food security and economic resiliency effects of municipal regulations.

LD 1967 – An Act to Support Municipal Franchise Agreements (Sponsored by Rep. Melanie Sachs of Freeport)

This bill provides that beginning on January 1, 2024 any new or renewed franchise agreement or contract between a municipality and a video services provider (VSP) that includes payment of a franchise fee must: (1) authorize the municipality to use the fees to offset the costs to regulate the VSP, support provision of public education and governmental (PEG) programs; offset municipal property taxes; and any other purposes identified by the municipality; (2) require franchise payments to be made no later than 45 days after the end of the each calendar quarter, with failure to do so resulting in the assessment of a 12% interest payment on unpaid fees and enabling the municipality to terminate the agreement or contract for repeated failure to pay fees; and (3) require payments to be accompanied by a financial statement, verified as correct, identifying the total amount of gross annual revenue generated by the activities of the provider and a description of the calculation used to determine the payment, which at the municipality's discretion may be subject to an audit by

a qualified third party selected by the municipality. The bill further clarifies that a municipality's acceptance of franchise fee revenue does not constitute agreement that the amount paid is correct unless the municipality has not initiated a process to challenge or audit the paid fee within 36 months of payment, or within 48 months of receipt of payment in cases where a financial statement is not provided. The bill also: (1) prohibits a VSP from offering or providing services within a municipality unless it has entered into a franchise agreement or contract with the municipality to do so; (2) grants the PUC regulatory oversight of VSP; (3) defines the terms facility support transmission equipment and PEG facility equipment program and signal; (4) replaces the term "cable system operator" with "video service providers" throughout the statute which is defined as a person that sells access to video, audio or computer generated or augmented entertainment services and owns or operates facilities located in whole or in part in public rights-of-way; (5) makes a VSP responsible for all cost for PEG equipment reasonably necessary to capture, process and deliver content and further provides that the VSP may not offset cost through the payment of a franchise fee, but provides that the VSP may recover costs from subscribers as permitted by law and negotiated by the municipality; (6) provides that a strand mile of cable is measure from the end of the current cable installation; (7) repeals the authority for municipalities to grant exclusive franchises; (8) requires the PUC to oversee and enforce the provision of the statute; and (9) authorizes the Attorney General to bring action to enforce the provisions of the law. Finally, the bill creates a dispute resolution process, authorizing the municipality or provider to petition the PUC to investigate and resolve the dispute or request binding arbitration by a mutually agreed arbiter from the Maine Association of Mediators.