

**SUMMARY OF
NEW LAWS ENACTED BY THE
FIRST REGULAR SESSION AND THE FIRST SPECIAL SESSION OF THE
130th LEGISLATURE***

The following is a capsule summary of some of the new laws enacted by the First Regular Session and the First Special Session of the 130th Legislature of significance for municipalities. Except for emergency laws and resolves, new laws become effective ninety days after adjournment of the session in which they were passed. The effective date of non-emergency legislation enacted in the First Regular Session was **Tuesday, June 29, 2021**. The effective date of non-emergency legislation enacted in the First Special Session is **Monday, October 18, 2021**. Emergency legislation became effective on the date it was signed by the Governor, which is noted after each Public Law citation.

Legislation enacted with a “mandate preamble” contains the following language: “This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two-thirds of all of the members elected to each House have determined it necessary to enact this measure.”

Electronic copies of the new laws in this summary are available on the State’s website: <http://www.legislature.maine.gov>. Simply type the number of the legislative document (“LD”) into the search box and click “Search.” On the left side of the screen, then click “Bill Text and Other Docs,” then “Text and Disposition,” and then “Chaptered Law.”

* Adapted from “New Laws” in the August-September 2021 edition of the Maine Town & City with the permission of Maine Municipal Association. Once again, we thank MMA for its work on behalf of municipalities before the Maine Legislature.

TABLE OF CONTENTS

NEW LEGISLATION

SUMMARY OF NEW LAWS ENACTED BY THE FIRST REGULAR SESSION AND THE FIRST SPECIAL SESSION OF THE 130th LEGISLATURE 1

A. ENVIRONMENT, AGRICULTURE, ENERGY & TELECOMMUNICATIONS ..2

Natural Resources, Forestry & Aquaculture Legislation..... 2

Environmental Protection & Pesticide Legislation 2

Agriculture Legislation..... 7

Public Utilities Legislation..... 7

Solid Waste & Recycling Legislation 9

Telecommunications Legislation 10

Water/Wastewater/ Stormwater Legislation..... 11

B. GOVERNMENT & PUBLIC AFFAIRS11

City/Town Clerk Legislation 11

Harbor Master Legislation 12

County Government Legislation 12

Freedom of Access/Privacy Legislation..... 13

Hunting/Fishing/ Recreation Legislation 14

Liquor Licensing Legislation..... 15

Marijuana Legislation 15

Motor Vehicle Legislation..... 16

Public Works/Transportation/Public Road Legislation..... 17

Voting & Elections Legislation..... 19

C. LABOR & EMPLOYMENT 21

Employee Rights & MHR A Legislation 21

<i>Public Employees Legislation</i>	21
<i>Employment Benefits & Standards Legislation</i>	22
<i>Workers' Compensation Legislation</i>	23
D. LAND USE, ZONING, PLANNING & REAL ESTATE	23
<i>Zoning & Planning Legislation</i>	23
<i>Permitting Legislation</i>	24
E. LAW ENFORCEMENT & PUBLIC SAFETY	24
<i>Animal Welfare Legislation</i>	24
<i>Criminal Justice Legislation</i>	24
<i>Police/Fire/Rescue Legislation</i>	26
<i>Public Health & Safety Legislation</i>	32
F. MUNICIPAL FINANCE	34
<i>Budget Legislation</i>	34
<i>Economic Development Legislation</i>	35
G. SCHOOL LAW	36
<i>General School Legislation</i>	36
<i>School Finance Legislation</i>	37
H. TAXATION	38
<i>Property Tax Legislation</i>	38
<i>State Tax Legislation</i>	39
<i>Vehicle Excise Tax Legislation</i>	39
SUMMARY OF RECENT COURT CASES	40
<i>Administrative Procedure</i>	40
<i>Civil Procedure</i>	40
<i>Elections/Voting</i>	41

<i>First Amendment</i>	41
<i>Home Rule & Charters</i>	42
<i>Land Use/Zoning</i>	43
<i>Maine Tort Claims Act</i>	44
<i>Property Taxation</i>	44
<i>Real Estate</i>	45
<i>Takings</i>	46

A. ENVIRONMENT, AGRICULTURE, ENERGY & TELECOMMUNICATIONS

Natural Resources, Forestry & Aquaculture Legislation

1. **LD 36 – An Act To Amend the Definition of “Timber Harvesting.” P.L. 2019, ch. 67 (Emergency Enacted Effective 4/7/21).**

This Act clarifies the definition of “timber harvesting,” as that term is used throughout state statutes, to mean any cutting or removal of trees or forest products that when cut or removed are transported to a roundwood processing operation, excluding reclaiming trees, logs or bark from timber harvesting or other operations.

2. **LD 263 – An Act To Make Technical Changes to Maine’s Marine Resources Laws. P.L. 2021, ch. 168.**

In part, this Act permits the Commissioner of Marine Resources to adopt rules to add or delete authorization for an aquaculture lease held only for scientific research purposes. The rules must provide for notice of proposed changes in gear authorization and an opportunity for the submittal of written comments by the public, riparian landowners and the municipality in which the lease is located.

3. **LD 454 – An Act To Ensure Equity in the Shellfish Depuration Compensation Process for Municipalities by Increasing the Rate of Reimbursement Paid to Municipalities. P.L. 2021, ch. 59.**

This Act increases the rate of reimbursement paid to the municipality by a shellfish depuration certificate holder from 50 cents to \$1 for each bushel of soft-shelled clams.

4. **LD 1407 – Resolve, Regarding Authority of Municipalities To Regulate Timber Harvesting. Resolves 2021, ch. 70.**

This Resolve directs the Director of the Maine Forest Service within the Department of Agriculture, Conservation and Forestry to convene a stakeholder group, including representation from municipalities, to review and assess the law and corresponding process relating to the adoption of or amendment to a municipal timber harvesting ordinance. The Resolve further requires the director to report findings and recommendations of the stakeholder group to the Committee on Agriculture, Conservation and Forestry, which is authorized to submit related legislation for consideration in 2022.

Environmental Protection & Pesticide Legislation

5. **LD 34 – An Act To Create the Maine Forestry Operations Cleanup and Response Fund. P.L. 2021, c. 63.**

This Act establishes the Maine Forestry Operations Cleanup and Response Fund for the Department of Agriculture, Conservation and Forestry, Bureau of Forestry for the purpose of mitigating and remediating water quality violations that result from timber harvesting activities and require immediate action to prevent or minimize further damage to waters of the State. The fund is

replenished with financial penalties, permit fees and other charges associated with timber harvesting, up to a limit of \$20,000. The Act allows the bureau to recover costs incurred through the use of this fund and to place a lien on a property when the responsible party is unwilling or unable to repay such costs.

6. LD 65 – An Act To Invest in the Stewardship and Management of Properties Acquired with the Proceeds from the Land for Maine’s Future Fund or the Public Access to Maine Waters Fund. P.L. 2021, ch. 33.

This Act allows a small portion of the Land for Maine’s Future (LMF) program bond to be used to fund minor capital investments in the stewardship and management of properties acquired with revenue from the LMF fund or the Public Access to Maine Waters Fund, to ensure that these properties are maintained in perpetuity for the purposes for which the properties are conserved.

7. LD 129 – Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Levels for Certain Substances and Contaminants. Resolves 2021, ch. 82 (Emergency Enacted Effective 6/21/21; Mandate).

This Resolve requires community water systems (those serving at least 15 year-round residents) to conduct testing for perfluoroalkyl and polyfluoroalkyl substances (PFAS) in drinking water by December 31, 2022. Depending on the levels detected, the community water system is required to conduct either quarterly or annual monitoring. If PFAS levels are above 20 nanograms per liter, the Department of Environmental Protection (DEP) must require the community water system to implement treatment measures to reduce the level of contaminants and to notify users of the water system. The Resolve also directs the DEP to initiate a rulemaking process regarding the regulation of PFAS contaminants.

8. LD 155 – Resolve, Directing the Board of Pesticides Control To Prohibit the Use of Certain Neonicotinoids for Outdoor Residential Use. Resolves 2021, ch. 33.

This Resolve directs the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control to prohibit the use of any product containing certain neonicotinoids used for application in outdoor residential landscapes such as on lawn, turf or ornamental vegetation, except for products used for preserving wood or controlling/treating insects around structural foundations and other parts of structures. The Resolve also requires the board to allow the use of certain neonicotinoids by certified applicators on ornamental vegetation to manage emerging invasive insect pests in order to safeguard the public health, safety, welfare and natural resources of Maine.

9. LD 163 – An Act Concerning the Regulation of Air Emissions at Petroleum Storage Facilities. P.L. 2021, ch. 294.

This Act amends the laws regulating air emissions to require the adoption by rule of certain technical requirements and prohibitions applicable to the licensure or operation of petroleum storage facilities with aboveground petroleum storage tanks and bulk gasoline terminals. It further requires that an incinerator may not be used to dispose of solid waste without a license, except for small incinerators burning wood waste or wood from construction and demolition debris. The Act also requires the Department of Environmental Protection, on or before December 31, 2021, to initiate major substantive rulemaking to amend its air emissions rules to be consistent with the changes to

related laws and no later than March 1, 2022, submit a report to the Committee on Environment and Natural Resources containing findings and any recommendations, including proposed legislation.

10. LD 264 – Resolve, Directing the Board of Pesticides Control To Gather Information Relating to Perfluoroalkyl and Polyfluoroalkyl Substances in the State. Resolves 2021, ch. 83.

This Resolve directs the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control to amend its rules governing the registration of pesticides in Maine to require manufacturers and distributors to provide affidavits stating whether the registered pesticide has ever been stored, distributed or packaged in a fluorinated high-density polyethylene container and to require manufacturers to provide an affidavit stating whether a PFAS is in the formulation of the registered pesticide. The board is also directed to conduct a study to determine if “fluorinated adjuvants” are being used or sold in the State as additives to pesticides, and explore what is necessary both to regulate fluorinated adjuvants and impose a prohibition on the distribution or application of pesticides or adjuvants containing PFAS in the State. By January 15, 2022, the board must submit a report, including recommendations, to the Committee on Agriculture, Conservation and Forestry, which is authorized to submit related legislation for consideration in 2022.

11. LD 363 – An Act Regarding the Statute of Limitations for Injuries or Harm Resulting from Perfluoroalkyl and Polyfluoroalkyl Substances. P.L. 2021, ch. 328.

This Act provides that an action arising out of any harm or injury caused by a perfluoroalkyl or polyfluoroalkyl substance accrues when the plaintiff discovers or reasonably should have discovered the harm or injury, and provides that this provision applies to all actions occurring prior to the enactment of the law. Furthermore, the terms of the Act do not alter the notice period or limitation period applicable to claims against a government entity under the Maine Tort Claims Act.

12. LD 519 – An Act To Protect Children from Exposure to Toxic Chemicals. P.L. 2021, ch. 197.

This Act bans the use of certain herbicide chemicals (glyphosate and dicamba) within 75 feet of school grounds, except that the prohibition does not apply to agricultural land or residential property. The Act also directs the Agriculture, Conservation and Forestry, Board of Pesticides Control to establish a medical advisory committee to evaluate the human health impact of herbicides used on school grounds. No later than February 1, 2022, the board is required to submit a report to the Committee on Agriculture, Conservation and Forestry, which is authorized to submit related legislation for consideration in 2022.

13. LD 524 – Resolve, Directing the Board of Pesticides Control To Research Workable Methods To Collect Pesticide Sales and Use Records for the Purpose of Providing Information to the Public. Resolves 2021, ch. 54.

This Resolve directs the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control to research workable methods to collect pesticide sales and use records for the purpose of providing information to the public. No later than January 1, 2022, the Resolve further directs the board to submit a report, with findings and recommendations, to the Committee on

Agriculture, Conservation and Forestry, which is authorized to submit related legislation for consideration in 2022.

**14. LD 780 – An Act Regarding Uncontrolled Hazardous Substance Sites.
P.L. 2021, ch. 117.**

This Act amends the definition of “hazardous substance” in the State’s uncontrolled hazardous substance sites law by cross-referencing anything identified by the EPA as a hazardous substance, pollutant or contaminant under the federal CERCLA statute, which includes PFAS. The Act also provides a limited exemption from liability for publicly owned treatment works and public water systems based on the contribution of effluent or sewage sludge or water treatment residuals to an uncontrolled site. Exemptions from limited liability protections include: (1) failure to follow all applicable requirements under State statute; (2) failure to comply with an information request or administrative subpoena; or (3) impediment of the performance of a response action or natural resource restoration at the uncontrolled site. The Act also requires that, on or before January 15, 2023, the Department of Environmental Protection (DEP) report to the Committee on Environment and Natural Resources the uncontrolled hazardous substance sites where the DEP has used its authority to require responsible parties to investigate or remove hazardous substances that are pollutants or contaminants and, for each site, information identifying the substance involved.

**15. LD 937 – Resolve, To Direct the Department of Agriculture, Conservation and Forestry and the Department of Inland Fisheries and Wildlife To Jointly Develop Recommendations Regarding Carbon Storage Programs and Policies.
Resolves 2021, ch. 28.**

This Resolve directs the Departments of Agriculture, Conservation and Forestry and Inland Fisheries and Wildlife to jointly develop recommendations for the establishment of programs and policies to promote and incentivize practices that increase sequestration of soil carbon on natural and working lands by farmers, landowners and land managers. The Resolve directs the Departments to submit an interim report, on or before March 1, 2022, to the Committee on Agriculture, Conservation and Forestry (ACF) and provides that the ACF committee may submit a bill in 2022 relating to the subject matter of the report. The Resolve further directs the Departments to submit a final report, on or before September 1, 2022, to the ACF committee, which is authorized to submit additional legislation in 2023.

**16. LD 1023 – An Act Regarding the Outdoor Release or Abandonment of Balloons.
P.L. 2021, ch. 374.**

This Act amends the State’s litter control law to clarify that waste materials resulting from the outdoor release or abandonment of a balloon constitutes litter under that law and provides that it is a violation of the litter law for a person to intentionally release outdoors a balloon that is inflated or filled with a gas that is lighter than air, except for a balloon carrying scientific instrumentation, a balloon used for meteorological observation by a governmental or scientific organization, or a hot air balloon that is recovered after launching. The Act applies a civil penalty of not less than \$100 nor more than \$500 for the illegal intentional release of 16 to 24 balloons and a civil penalty of not less than \$500 nor more than \$1,000 for the illegal intentional release of more than 24 balloons.

17. LD 1503 – An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution. P.L. 2021, ch. 477 (Emergency Enacted Effective 7/15/21).

Beginning in 2023, this Act requires manufacturers of products with intentionally added PFAS to report the presence of those substances to the Department of Environmental Protection (DEP) and further prohibits in-state sales of residential carpets, rugs, or fabric treatments that contain intentionally added PFAS, but does not apply to the sale or resale of used products. The DEP is further authorized to add other products to the list of prohibited sales. Effective in 2030, products containing intentionally added PFAS may not be sold in-state unless the DEP specifies that the use of PFAS in a particular product is unavoidable. To the extent funds are available, the DEP is required to create a PFAS source reduction program that provides information, education and grants to publicly owned treatment works and municipalities to reduce PFAS entering air, water or land.

18. LD 1505 – An Act To Restrict the Use of Perfluoroalkyl and Polyfluoroalkyl Substances in Firefighting Foam. P.L. 2021, ch. 449.

Beginning on January 1, 2022, this Act prohibits a person from discharging for testing or training purposes fire-suppressing foam that contains intentionally added PFAS, unless the foam is entirely collected for proper disposal. The Act clarifies that discharges of such fire-suppressing foams are not prohibited when used in an emergency situation to protect life or property. The Act also prohibits a person from manufacturing, selling, or offering for sale in the State fire-suppression foams to which PFAS has been intentionally added, except: (1) until January 1, 2025 fire-suppressing foam that is used at an oil terminal facility; or (2) until federal law no longer requires the use of fire-suppressing foam at airports. Finally, in collaboration with the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency and interested parties, the Department of Environmental Protection (DEP) shall develop a framework for the collection and safe storage of firefighting and fire-suppressing foams to which PFAS substances have been intentionally added. On or before March 1, 2022, the DEP shall submit a report that includes the proposed framework and recommendations to the Committee on Environment and Natural Resources, which is authorized to submit related legislation for consideration in 2022.

19. LD 1600 – An Act To Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater. P.L. 2021, ch. 478.

This Act creates the Land Application Contaminant Monitoring Fund to test and monitor soil and groundwater for PFAS and other contaminants and to abate and mitigate the effects of contamination, including but not limited to, the provision of access to safe drinking water and installation of filter treatment systems. In addition to other fees or charges required by statute or rule, beginning January 15, 2023, the Department of Environmental Protection (DEP) shall assess an annual fee, calculated on a calendar year basis of \$10 per ton, on the handling of sludge or septage to be deposited into the fund. The Act further requires the DEP to (i) develop a program for the testing of leachate collected and managed by solid waste landfills for PFAS substance contamination; and (ii) mandate landfills to conduct periodic testing of leachate for PFAS and report the results to the DEP.

Agriculture Legislation

- 20. LD 568 – An Act To Establish a Working Farmland Access and Protection Program within the Department of Agriculture, Conservation and Forestry and a Working Farmland Access and Protection Fund within the Land for Maine’s Future Program. P.L. 2021, ch. 135 (Emergency Enacted Effective 6/10/21).**

This Act establishes the Maine Working Farmland Access and Protection Program within the Department of Agriculture, Conservation and Forestry (DACF) for the purpose of strengthening the alignment between the DACF’s farmland conservation goals and the Land for Maine’s Future (LMF) program. This Act establishes the Maine Working Farmland Access and Protection Fund within the LMF program, the proceeds of which may be used to acquire property or interests in property for farmland protection projects. The Act also provides that consideration must be given to applicants from or serving under-served or underprivileged communities.

- 21. LD 820 – Resolve, To Convene a Working Group To Develop Plans To Protect Maine’s Agricultural Lands When Siting Solar Arrays. Resolves 2021, ch. 26.**

This Resolve directs the Department of Agriculture, Conservation and Forestry (DACF) to convene a working group of stakeholders to develop plans and consider ways to discourage the use of land of higher agricultural value and encourage the use of more marginal agricultural lands when siting a solar array. The DACF must submit its report and recommendations, including any suggested legislation, to the Agriculture, Conservation and Forestry; Energy, Utilities and Technology; and Environment and Natural Resources committees no later than January 14, 2022.

Public Utilities Legislation

- 22. LD 143 – An Act Regarding the Arrearage Management Program. P.L. 2021, ch. 101.**

This Act extends to September 30, 2024 the repeal date for the arrearage management programs implemented by electricity utility providers to assist eligible low-income resident customers who are in debt. The Act also directs the Public Utilities Commission to consider proven, global best practices to assist low-income ratepayers, including, but not limited to, the use of lower tier rates for customers based on income. No later than January 15, 2022, the commission must submit a report to the Committee on Energy, Utilities and Technology, which is authorized to submit related legislation for consideration in 2022.

- 23. LD 256 – An Act To Adjust Sewer and Wastewater Lien Fees. P.L. 2021, ch. 70.**

This Act increases from \$13 to \$25 the flat fee paid by a delinquent sewer or wastewater ratepayer and requires the rate to be adjusted annually for inflation based on the Consumer Price Index.

- 24. LD 336 – An Act To Encourage Research To Support the Maine Offshore Wind Industry. P.L. 2021, ch. 327.**

This Act directs the Public Utilities Commission (PUC) to require the negotiation of a long-term contract for the design, permitting, construction and operation of the State’s proposed floating

offshore wind research array between the developer of the research array and an investor-owned transmission and distribution utility, and also allows the PUC to require the negotiation of a long-term contract for the sale of electricity from the project within 9 months of the effective date of the law.

25. LD 802 – An Act To Ensure Decommissioning of Solar Energy Developments. P.L. 2021, ch. 151.

This Act requires a person to obtain approval of a decommissioning plan from the Department of Environmental Protection or from the Maine Land Use Planning Commission in the case of a solar energy development located in the unorganized and deorganized areas before constructing or operating a solar energy development with ground-mounted solar panels occupying three or more acres. Such decommissioning plans must include, among other things, sufficient financial assurance, in the form of a performance bond, surety bond, or irrevocable letter of credit, to cover the total cost of decommissioning. The Act applies to projects built on or after October 1, 2021.

26. LD 936 – An Act To Amend State Laws Relating to Net Energy Billing and the Procurement of Distributed Generation. P.L. 2021, ch. 390.

This Act specifies several new requirements that must be met for a “distributed generation resource” (which includes solar facilities) with a nameplate capacity between three and five megawatts to be able to participate in Maine’s net energy billing process. The Act also directs the Governor’s Energy Office in coordination with the Public Utilities Commission to convene a stakeholder group to consider various distributed generation project programs to be implemented between 2024 and 2028 and the need for improved grid planning. It defines, for the purposes of this stakeholder process, “distributed generation project” as a renewable energy project with a nameplate capacity of no more than five megawatts that has identified residential, commercial and institutional customers, including but not limited to net energy billing arrangement projects. The Committee on Energy, Utilities and Technology is authorized to submit legislation on the basis of the interim report for consideration in 2022 and in 2023 on basis of the final report.

27. LD 1432 – An Act To Update the Municipal Gigabit Broadband Network Access Fund. P.L. 2021, ch. 362.

This Act amends the Municipal Gigabit Broadband Network Access Fund, which is a fund administered by the ConnectMaine Authority to address the need in Maine to access ultra-high-speed broadband infrastructure to: (1) limit the grants to a municipality or group of municipalities; (2) remove the cap on the amount of the grant, but limit the amount of ConnectMaine funds that may be used to 50% of the total cost of a project; and (3) maintain the requirement that a municipality provide at least a 25% cash match, but provide that the cash match may not consist of funds from a source other than the municipality.

28. LD 1619 – An Act To Prohibit Offshore Wind Power Development in Territorial Waters and Submerged Lands of the State. P.L. 2021, ch. 407 (Emergency Enacted Effective 7/6/21).

With some exceptions, this Act prohibits the development of offshore wind power projects on State-owned submerged lands or territorial waters. One of the exceptions in the Act provides that the licensing, permitting or approval by a State agency, municipality or other political subdivision of

the State of the siting, construction or operation of or the issuance of a lease or the grant of an easement or other real property interest for utility cables or transmission lines that are intended to support the generation of wind energy located seaward of territorial waters is prohibited unless, by March 1, 2023, the Governor's Energy Office has: (1) developed a strategic plan to inform the development of offshore wind power projects; (2) reviewed the ability of State laws and rules to protect Maine's coastal resources from the development of offshore wind energy generation located seaward of the territorial waters; and (3) with input of the advisory board of the Offshore Wind Research Consortium, which is established by this legislation to coordinate, support and arrange for the conduct of research on offshore wind power projects in the Gulf of Maine, has identified the preliminary research questions the consortium seeks to answer regarding the development of offshore wind power projects. The Act also requires the Governor's Energy Office to submit a report notifying the Committee on Energy, Utility and Technology of the completion of these requirements. Lastly, the Act directs the Department of Agriculture, Conservation and Forestry, the Public Utilities Commission and the Department of Environmental Protection each to submit, by February 1, 2022, legislation necessary to align those provisions of law under their respective jurisdictions with the prohibition on offshore wind power projects.

29. LD 1659 – An Act To Create the Maine Clean Energy and Sustain ability Accelerator. P.L. 2021, ch. 358.

This Act creates the Maine Clean Energy and Sustainability Accelerator, administered by the Efficiency Maine Trust, to support the development of clean energy and sustainability projects and infrastructure through providing financing support, including loans, loan guarantees and other financial and risk mitigation products. Among other things, the Act requires the Accelerator to explore the establishment of a program to provide low-interest or zero-interest loans to any school, municipal planning organization, or nonprofit seeking financing to acquire a zero-emissions vehicle fleet.

30. LD 1710 – An Act To Require Prompt and Effective Use of the Renewable Energy Resources of Northern Maine. P.L. 2021, ch. 380.

This Act establishes the Northern Maine Renewable Energy Development Program to remove obstacles to the use of and to promote development of the substantial renewable energy resources in northern Maine. The Public Utilities Commission is directed to issue a request for proposals for the development and construction of a 345-kilovolt double circuit generation connection line, or, in the commission's discretion, a transmission line or lines of greater capacity, to connect renewable energy resources located in northern Maine and developed with the electric grid operated by the New England independent system operator. The Act also authorizes the commission to approve and order contracts for the purchase, beginning on or after January 1, 2024, of capacity, renewable energy or renewable energy credits, or any combination thereof, in an amount that is between 18% and 22% of the retail electric load in the State for the calendar year 2019.

Solid Waste & Recycling Legislation

31. LD 8 – An Act To Support Collection and Proper Disposal of Unwanted Drugs. P.L. 2021, ch. 94.

This Act requires certain drug manufactures to implement drug takeback stewardship programs for the purpose of collecting and disposing of certain medications. Of municipal interest,

the Act explicitly authorizes law enforcement agencies to participate as collectors in a takeback stewardship program.

32. LD 57 – An Act To Reduce the Landfilling of Municipal Solid Waste. P.L. 2021, ch. 230.

This Act repeals the existing statute that requires a \$2 surcharge per ton of municipal solid waste disposed of at landfills (along with some exemptions), and replaces it with a \$1 per ton disposal fee on all municipal solid waste disposed of at landfills. The Act also authorizes the Department of Environmental Protection to adopt major substantive rules imposing per ton fees on any municipal solid waste disposed or received for processing at a commercial, municipal, regional association or State-owned solid waste disposal facility, solid waste processing facility, incineration facility or solid waste landfill.

33. LD 1541 – An Act To Support and Improve Municipal Recycling Programs and Save Taxpayer Money. P.L. 2021, ch. 455.

This Act creates a stewardship program for packaging material to be operated by an organization selected by the Department of Environmental Protection (DEP) or by an “alternative collection program” operated by an individual producer or a group of producers that is approved by the DEP. The purpose of the program is to assess and collect payments from producers based on either the weight or volume of packaging materials sold, offered for sale or distributed for sale in Maine by each producer and to reimburse participating municipalities for certain recycling and waste management costs. A municipality electing to participate in the program must: (1) provide for the collection and recycling of packing material that is generated in the municipality and is readily recyclable; and (2) annually report to the stewardship organization all of the information necessary to determine the incurred costs associated with the collection, processing, transportation and recycling of the material. Reimbursement to an eligible municipality is based on the median per-ton cost of managing packaging material. The Act further directs the DEP to adopt the rules necessary to implement the program.

Telecommunications Legislation

34. LD 1484 – An Act To Establish the Maine Connectivity Authority. P.L. 2021, ch. 364 (Emergency Enacted Effective 6/24/21).

This Act (to be known as the “Connectivity Infrastructure Act”), sets forth broadband connectivity goals and establishes the Maine Connectivity Authority (MCA) to further those goals through the development and financing of connectivity projects to expand high-speed internet service throughout the State. The activities of the MCA are governed by seven voting members, one of whom represents Maine communities, and four ex officio voting members. The Act also directs the MCA, in consultation with the ConnectMaine Authority, to review the provisions of the Maine statutes pertaining to each entity and develop recommendations for any necessary changes to those provisions to facilitate the oversight of the ConnectMaine Authority by the MCA and any other recommendations. The MCA is further directed to submit recommendations, including any proposed legislation, to the Committee on Energy, Utilities and Technology on or before January 15, 2022, which is authorized to submit related legislation for consideration in 2022.

Water/Wastewater/Stormwater Legislation

- 35. LD 771 – An Act To Amend the Laws Governing Wastewater Treatment Plant Operator Certification. P.L. 2021, ch. 173.**

This Act modifies the laws governing the wastewater treatment plant operator certification program administered by the Department of Environmental Protection (DEP). It changes the procedure for revocation of a wastewater treatment plant operator certification, provides authority for suspension of a wastewater treatment plant operator certification, clarifies how the DEP may administer the program, updates outdated terminology and eliminates outdated provisions. The Act also clarifies the DEP's existing authority with respect to licenses and wastewater treatment plant operator certificates.

B. GOVERNMENT & PUBLIC AFFAIRS

City/Town Clerk Legislation

- 36. LD 24 – An Act Regarding Certificates of Birth, Marriage and Death. P.L. 2021, ch. 49.**

This Act clarifies that the signatures on a marriage license of the parties intended to be married may be obtained at the issuance of the license or at the time the marriage is solemnized. The Act also requires that when a death or marriage occurs in an unincorporated place, it must be recorded or registered in the electronic registration system. It further clarifies that a birth certificate may be amended by the replacement of a genetic parent and makes technical changes to the laws governing electronic registration records to align with the Maine Parentage Act.

- 37. LD 800 – An Act To Amend Credit and Debit Card Surcharges Imposed by Governmental Entities. P.L. 2021, ch. 150.**

In part, this Act includes in the definition of a “government entity” an organized plantation, which is authorized to impose a surcharge for payments made by credit card or debit card for taxes, fines, charges, fees, and licenses or the provision of a specific service or goods.

- 38. LD 855 – An Act Regarding the Issuance of a Birth Certificate Following a Gender Marker Change. P.L. 2021, ch. 309.**

This Act amends the laws regulating the amendment of vital statistics records and the issuance of new certificates of birth to allow application for gender marker change.

- 39. LD 1522 – An Act To Update and Eliminate References in Statute to Selectmen and Overseers of the Poor. P.L. 2021, ch. 275.**

This Act replaces in Maine statutes the term “board of selectmen” with “select board”; “overseer of the poor” with “board of overseers”; and in most instances, “a selectman” with “member of the select board.”

Harbor Master Legislation

40. **LD 73 – An Act To Authorize Municipalities To Allow Harbor Masters and Deputy Harbor Masters To Use Red or Combination Red and White Auxiliary Lights When Responding to Watercraft Emergencies. P.L. 2021, ch. 26 (Effective 6/29/21).**

This Act allows a municipality to authorize a harbor master or deputy harbor master to use a red or combination red and white flashing auxiliary light on a personal vehicle when responding to a watercraft emergency. The authority may be revoked by the municipality at any time.

41. **LD 152 – An Act To Address Training Requirements for Harbor Masters. P.L. 2021, ch. 53.**

Under current law, a person appointed or reappointed to the position of harbor master or deputy harbor master after August 13, 2006 must complete a basic training course within one year of appointment. This Act amends existing requirements by specifying that if a person has not held the position within the last five years, that person must complete the basic training course. The Act also requires harbor masters and deputies to complete eight hours of continuing education every three years. Finally, the Act permits, but does not require, municipalities to pay for the mandated training and directs the Harbor Masters Association to offer both in-person and remote training options.

County Government Legislation

42. **LD 243 – An Act To Amend the Composition of the Piscataquis County Budget Committee. P.L. 2021, ch. 55.**

This Act clarifies that appointment to the Piscataquis County Budget Committee is done in a manner established by the county commissioners. The Act also requires the county commissioners to appoint one member to the budget committee who is a resident of an unorganized territory located in the county and permits the commissioners to appoint one other resident of an unorganized territory to the budget committee.

43. **LD 621 – An Act To Increase the Number of Franklin County Commissioners. P.L. 2021, ch. 8 (Mandate).**

This Act requires the legislative apportionment commission to develop two apportionment plans for Franklin County, one plan dividing Franklin County into three commissioner districts and the other plan dividing the county into five commissioner districts. In the election held in November 2, 2021, the Franklin County Commissioners are required to submit a referendum question to the voters asking whether they favor dividing Franklin County into five districts. If the referendum question passes with a majority vote, the commission is required to submit an apportionment plan dividing Franklin County into three districts until 2024 and five districts thereafter.

44. **LD 1008 – An Act To Require Joint Use Entities To Establish Permanent Liaisons with All County Emergency Management Agencies. P.L. 2021, ch. 154.**

This Act requires a “joint use entity,” which includes a public utility, voice service provider, dark fiber provider, wholesale or retail competitive local exchange carrier, cable television system, unlit

fiber provider, telecommunications service provider or information service provider, to designate a permanent liaison with each county emergency management agency in the State in counties in which the joint use entity has facilities in order to assist in the coordination of efforts during a disaster or civil emergency. The Act also provides that a joint use entity is responsible for ensuring that such a designated permanent liaison responds immediately to any contact or request for assistance during a disaster or civil emergency from the county emergency management agency to which the liaison is designated. It further provides that a county emergency management agency that receives a communication from a joint use entity designating a permanent liaison must communicate to that entity the contact information for the employee or employees of the county emergency management agency responsible for coordinating the actions of the county during a disaster or civil emergency.

45. LD 1065 – An Act To Clarify the Qualifications and Oversight of Sheriffs. P.L. 2021, ch. 202.

This Act clarifies that a candidate for county sheriff must either be: (1) currently certified as a law enforcement officer and in compliance with all applicable training requirements; or (2) a previously certified law enforcement officer who agrees to meet all applicable training requirements within one year of taking office. The Act also requires all county sheriffs to continually meet the in-service law enforcement training standards and any other statutory requirements of preservice, basic or in-service law enforcement training required for certification or continued certification as a law enforcement officer. The Act further provides that a full-time law enforcement officer employed by a municipal police department or State agency before July 1, 1990 is deemed to have met the minimum qualifications for county sheriff.

Freedom of Access/Privacy Legislation

46. LD 32 – An Act Regarding Remote Participation in Public Proceedings. P.L. 2021, ch. 290 (Emergency Enacted Effective 6/21/21).

This Act authorizes municipal officials to adopt a policy regulating the use of remote meetings after public notice and hearing on the policy. The Act clarifies that remote participation by a member of the body is authorized only when a physical presence is not practical, which may include an emergency, illness or other physical condition or temporary absence from the jurisdiction making it significantly difficult for a member to travel to attend in person or when geographic characteristics impede or slow travel. The policy must also: (1) provide the public with an opportunity to participate remotely when a member of the body is authorized to do so; (2) provide an effective means of communication between the body and public when remote participation is allowed; (3) include in the notice of the meeting information on how members of the public can participate in-person and remotely; and (4) require all materials to be made available to the same extent available to those participating at the meeting location. The law also clarifies that votes must be taken by roll call vote and that a member participating remotely is considered present for the purposes of establishing a quorum and for voting.

47. LD 1345 – An Act To Implement the Recommendations of the Right To Know Advisory Committee. P.L. 2021, ch. 313.

This Act amends the Freedom of Access Act by capping the fee for copying a public record at 10¢ per page and clarifying that a fee may not be assessed for records provided electronically. The

law also extends the related training requirements to code enforcement officers, town and city managers, town and city administrators, planning board members, school superintendents, assistant superintendents and school board members and clarifies that the training must be completed within 120 days of assuming the duties of the position.

Hunting/Fishing/Recreation Legislation

48. LD 114 – An Act To Address Airboat Operation in the State. P.L. 2021, ch. 166.

This Act repeals current law requiring the Department of Inland Fisheries and Wildlife to establish noise level limits for airboats by rule and replaces it with a provision establishing temporary airboat noise limits, which are repealed on September 30, 2022. The Act also directs the Commissioners of Marine Resources and Inland Fisheries and Wildlife to convene a stakeholder group to examine and determine airboat mechanical systems and adjustments that result in the lowest practically achievable airboat decibel level and examine and determine available federal or other funding to assist owners in addressing identified deficiencies in their airboat mechanical systems to achieve those results. The stakeholder group may also examine other issues related to airboats such as establishing and restoring shellfish harvester access to coastal tidal areas, operational techniques to allow for lower decibel levels and appropriate training and equipment for State and municipal law enforcement officers. By January 15, 2022, the Act requires the commissioners to report findings and recommendations to the committees on Marine Resources and Inland Fisheries and Wildlife. After receiving the report, the Inland Fisheries and Wildlife Committee is authorized to submit related legislation for consideration in 2022.

49. LD 223 – An Act To Clarify Maine’s Fish and Wildlife Licensing and Registration Laws. P.L. 2021, ch. 411.

Of municipal interest, this Act includes language that is consistent with all-terrain vehicle registration requirements in regard to the form and display of snowmobile registration numbers and stickers. The Act also provides that a snowmobile registered after May 1 and prior to July 1 has a registration that expires June 30 of the following year.

50. LD 569 – An Act To Prohibit Hunting with a Bow within 100 Yards of a Building or Residence on That Land without Permission. P.L. 2021, ch. 74.

This Act prohibits the discharge of an arrow from a bow when on the land of another person or across the land of another person and within 100 yards of a building or residential dwelling on that land without the permission of the owner or, in the owner’s absence, the permission of an adult occupant authorized to act on behalf of the owner.

51. LD 1439 – An Act To Clarify All-terrain Vehicle Registration Requirements and Establish Regular Maintenance of Designated State-approved All-terrain Vehicle Trails. P.L. 2021, ch. 215.

This Act amends the all-terrain vehicle (ATV) laws in the following ways: (1) increases the registration fees for ATVs by \$25 for each type of registration and requires the Department of Agriculture, Conservation and Forestry (DACF), Bureau of Parks and Lands to use the fees deposited into the ATV Recreational Management Fund to oversee construction and maintenance of designated

State-approved ATV trails; (2) for registration purposes, creates a category of “antique ATV,” which is an ATV over 25 years old, and provides that the registration fee is \$45; and (3) creates a category of “oversized all-terrain vehicle,” which is an ATV that is wider than 65 inches or weighs more than 2,000 pounds according to the manufacturer’s specifications. The Act also provides that when an oversized ATV is registered, the agent must provide information, developed by the DACF, which explains size and weight restrictions and other conditions for use over designated State approved ATV trails.

Liquor Licensing Legislation

52. LD 1642 – An Act Regarding Local Option Elections. P.L. 2021, ch. 137 (Emergency Enacted Effective 6/10/21).

This Act provides that if a municipality conducted a local option election prior to January 1, 1977 approving the issuance of licenses for the sale of liquor for on-premises consumption at any type of licensed establishment, the election results are deemed to be evidence that the municipality approved the issuance of licenses for the sale of liquor for on-premises consumption by all types of licensed establishments unless the municipality voted to prohibit the issuance of licenses for the sale of liquor for on-premises consumption in a subsequent local option election.

Marijuana Legislation

53. LD 605 – An Act To Amend the Marijuana Legalization Act. P.L. 2021, ch. 226.

Of interest to municipalities in this Act is the provision for enhanced training from the Office of Marijuana Policy for municipal officers and employees in matters pertaining to adult-use marijuana, including inspections, investigations, searched, seizures, and personal use, as well as restorative justice and jail diversion.

54. LD 882 – Resolve, To Direct the Office of Marijuana Policy To Convene Stakeholder Meetings Regarding the Maine Medical Use of Marijuana Program. Resolves 2021, ch. 95.

This Resolve directs the Department of Administrative and Financial Services (DAFS), through its Office of Marijuana Policy, to convene meetings with stakeholders, including municipal officials, to study, review and evaluate the need to amend the Maine Medical Use of Marijuana Act. The DAFS is further directed to submit its findings and recommendations no later than January 1, 2022 to the Committee on Legal and Veterans Affairs which is authorized to submit related legislation in 2022.

55. LD 939 – An Act To Support Maine’s Medical Marijuana Program and Ensure Patient Access. P.L. 2021, ch. 367.

Of municipal interest, this Act amends a provision under the Maine Medical Use of Marijuana Act allowing registered caregivers and dispensaries to transfer and accept from another registered caregiver or a dispensary an unlimited amount of their marijuana plants and harvested marijuana in a wholesale transaction.

56. LD 1434 – An Act Regarding Controlled Entry Areas within Retail Marijuana Stores. P.L. 2021, ch. 314.

This Act allows a marijuana store to have a controlled, indoor entry area, which must be physically separated from the sales area, directly inside the store where the identification of a purchaser can be verified and the purchaser can await entry into the store. A licensee shall ensure that persons under 21 years of age do not enter its licensed premises, except that a marijuana store licensee may use a controlled, indoor entry area to verify the identification and age of persons before allowing entry.

Motor Vehicle Legislation

57. LD 130 – An Act to Create Appropriate Standards for the Secretary of State To Follow When Approving the Assignments of Vanity Registration Plates. P.L. 2021, ch. 232.

This Act limits the vanity registration plates the Secretary of State may refuse to issue or may recall to plates that: (1) falsely suggest an association with a public institution or government; (2) are duplicative; (3) encourage violence or contain language that may result in an act of violence or other unlawful activity because of the content of the language; (4) are profane or obscene; (5) make derogatory references; (6) connote genitalia or relate to sexual acts; or (7) form a slang term, abbreviation, phonetic spelling or mirror image of a word or term within any of the other categories. The Act also creates an appeals process for challenging the secretary's decision to refuse to issue or recall a vanity registration plate.

58. LD 266 – An Act To Create the Maine Lighthouse Trust Registration Plate. P.L. 2021, ch. 56.

This Act creates the Maine Lighthouse Trust specialty registration plate to support lighthouse restoration and preservation efforts.

59. LD 312 – An Act To Extend the Maine Bicentennial Commission and the Use of Maine Bicentennial Registration Plates through 2021. P.L. 2021, ch. 89 (Emergency Enacted Effective 6/8/21).

This Act removes the requirement that an expiration date be displayed on the State of Maine Bicentennial commemorative motor vehicle registration plate; extends the expiration date of the commemorative plate to December 31, 2021; and extends the Maine Bicentennial Commission to December 31, 2021.

60. LD 1104 – An Act To Increase the Time for Which a Temporary Motor Vehicle Registration Plate Is Valid. P.L. 2021, ch. 126.

This Act increases from 14 to 30 the number of days a person may operate a motor vehicle or trailer with a temporary registration plate without payment of a regular registration plate fee.

61. LD 1433 – An Act To Amend the Motor Vehicle Laws. P.L. 2021, ch. 216.

Of municipal interest, this Act amends the motor vehicle laws in the following ways: (1) provides for the continued use by government entities of off-road vehicles in prohibited areas; and

(2) authorizes the Secretary of State to use rulemaking to regulate municipal agent training requirements, accounting standards, inventory control processes and the collection and transmission of data and funds between agents and the Bureau of Motor Vehicles.

62. LD 1618 – Resolve, To Place a Temporary Moratorium on the Approval of Any New Motor Vehicle Registration Plates and Initiate a Registration Plate Working Group. Resolves 2021, ch. 108 (Emergency Enacted Effective 7/14/21).

This Resolve places a two-year moratorium on the approval of new motor vehicle registration plates and creates a related working group. The 10-member working group, including a member representing municipalities or another political subdivision engaged in the registration of motor vehicles, is directed to: (1) identify and document the roles and functions of the State's registration plates; (2) explore and document challenges in the registration plate manufacturing process, and the storing and securing of registration plate inventories in municipalities and in branch offices of the Bureau of Motor Vehicles; (3) examine the benefits, detriments and legal issues arising from specialty registration plates; competing interests with specialty registration plates; and standards and systems developed by national and industry experts; and (4) explore ways in which the State can adopt such standards and systems. The Bureau of Motor Vehicles is required to submit a report to the Committee on Transportation by February 1, 2022, which is authorized to submit related legislation for consideration in 2022.

Public Works/Transportation/Public Road Legislation

63. LD 227 – Resolve, To Conduct a Transit Propensity Study for Communities between Portland and Bangor. Resolves 2021, ch. 53.

This Resolve directs the Department of Transportation (DOT) to conduct a transit propensity study, if sufficient funding is received, to assess the demand and viability for new or enhanced transit service, including passenger rail, between the communities of Portland and Bangor. It requires the DOT to submit a report based on its study by January 1, 2023 to the Committee on Transportation, which is authorized to submit related legislation for consideration in 2023. Furthermore, the Resolve specifies that funds may not be collected by or transferred to the DOT for the purpose of conducting the study unless the DOT receives commitments for no less than 25% of the overall costs of the study from municipalities for which new or enhanced transit will be assessed as part of the study. If the impacted municipalities have not fulfilled their funding commitment by the agreed upon dates, the DOT is authorized to discontinue the study and return any remaining municipal funds.

64. LD 596 – An Act To Improve the Law Regarding Abandoned Roads. P.L. 2021, ch. 145.

Effective October 1, 2021, this Act repeals and replaces the current statute on the abandonment of town ways with a process that a municipality may choose to follow to declare a town way abandoned. This process includes notice provisions to abutting property owners, property owners for whom the town way is the only means of access and adjacent municipalities and counties and provides for a public hearing process and an appeals process. The Act clarifies that the public easement retained in a town way discontinued by abandonment is limited to rights of access by foot or motor vehicle. Furthermore, the Act expressly states that the section of law does not alter the ability of a town way to be abandoned under the common law presumption of abandonment.

65. LD 669 – An Act To Ensure Public Ways are Compliant with the Federal Americans with Disabilities Act of 1990. P.L. 2021, ch. 334.

This Act requires all public way improvements to comply with the Americans with Disabilities Act of 1990, including the placement of aboveground facilities in the public way. Additionally, the Act makes an alteration or relocation of an aboveground facility that is part of a construction or reconstruction project the financial responsibility of the facility owner.

66. LD 672 – Resolve, To Direct the Department of Transportation To Use a Rail Corridor Use Advisory Council in Reviewing the Mountain Division Rail Line for Potential Nonrail Uses. Resolves 2021, ch. 52 (Emergency Enacted Effective 6/14/21).

This Resolve directs the Department of Transportation to review the Mountain Division Line rail corridor, connecting the towns of Standish and Fryeburg, for potential non-rail uses through a rail corridor use advisory council.

67. LD 821 – An Act To Improve the Investigation and Prosecution of Cases That Involve Vulnerable Road Users. P.L. 2021, ch. 379.

This Act requires a law enforcement officer who investigates a reportable accident involving a vulnerable user or an incident resulting in bodily injury or death to a vulnerable user and who has probable cause to believe that a traffic infraction, civil violation or criminal violation is connected to that accident or incident to inform a district attorney about the investigation within five days and submit a final accident report as soon as is practicable but no later than 60 days after the accident or incident. Under the traffic laws, a vulnerable user is a person on a public way who is more vulnerable to injury than a person in a motor vehicle. The Act also clarifies that evidence submitted by a law enforcement officer later than 60 days after an accident or incident described in the Act may be used in the prosecution of a criminal violation or civil violation.

68. LD 991 – Resolve, Directing the Department of Transportation To Conduct an Economic Evaluation Study for Commuter and Passenger Train Service between Portland and the Lewiston and Auburn Area. Resolves 2021, ch. 56.

This Resolve directs the Department of Transportation (DOT) to conduct an economic evaluation study for commuter and passenger train service between Portland and the Lewiston and Auburn area that builds on the data and potential next steps included in the May 2019 Lewiston-Auburn Passenger Rail Service Plan. The cost of the study may not exceed \$200,000, of which \$20,000 must be funded by the impacted communities. The Resolve further directs the DOT to submit a report of its findings and recommendations to the Committee on Transportation no later than March 1, 2022, which is authorized to submit related legislation for consideration in 2022.

69. LD 1027 – An Act To Amend the Laws Governing Local Bridges. P.L. 2021, ch. 201.

This Act requires the Department of Transportation (DOT) to notify a municipality when a bridge for which a municipality has maintenance responsibility requires a posting or closure and requires the municipality to carry out the posting or closure. The Act also provides that in order for the DOT to accept certain responsibilities for an improved bridge or for a new bridge, the DOT must

approve the design of the improvements or construction before the improvements are made or the bridge is constructed. The design of the improvements or construction must meet standards set by the DOT and be sealed by a professional engineer. However, if the department determines that the improvements or new construction do *not* meet department standards then the municipality must complete such improvements before the department takes responsibility.

70. LD 1133 – An Act To Amend the Transportation Laws. P.L. 2021, ch. 239.

This Act authorizes the Commissioner of the Department of Transportation (DOT) to convene a 15-member rail corridor use advisory council, which may include one or more municipal officials from communities located on a rail corridor, to advise and make recommendations each time one or more governmental entities that represent communities along a State-owned rail corridor request that the DOT review a non-rail recreational use or non-recreational transportation use of that rail corridor. Following its review, the rail corridor use advisory council will issues a report with findings and recommendations regarding future use of the particular rail corridor. The Act also: (1) revises the priority classifications and goals for the State’s public highways; (2) prohibits the DOT from dismantling or making changes to State-owned railroad tracks for a non-rail use without going through the advisory council process and obtaining legislative approval; and (3) defines and includes “roundabouts” in the laws governing the use of traffic circles and rotaries.

71. LD 1723 – An Act Regarding Winter Maintenance on Private Roads in the Town of Windham. P. & S.L. 2021, ch. 10 (Emergency Enacted Effective 6/17/21).

This Act allows the Town of Windham to continue providing winter maintenance on certain private ways, regardless of the existence of a public easement, and authorizes the town to develop an ordinance to provide basic standards and procedures for such maintenance. The town is further required to submit a report to the Committee on State and Local Government detailing the progress toward conforming the use of public funds for winter maintenance on private ways with constitutional and statutory requirements, including assessments from the town’s police chief and fire-rescue chief on the connection between winter maintenance on certain private ways and public health and safety.

Voting & Elections Legislation

72. LD 102 – An Act To Extend the Time Frame for Processing Absentee Ballots. P.L. 2021, ch. 11.

This Act increases the number of days by which a municipality is authorized to start processing absentee ballots from the 4th to the 7th day immediately prior to election day. The Act also amends from 60 to 30 days before the election the timing of the notice provided to the Secretary of State and the chair of each political party in the municipality of the clerk’s intent to process absentee ballots prior to election day.

73. LD 1126 – An Act To Update the Voter Registration Process. P.L. 2021, ch. 439.

Effective on November 1, 2023, this Act directs the Secretary of State to post on a publicly accessible website an online voter registration application enabling an individual to register to vote and enroll in a party, change a voter’s party, withdraw from a party or notify the appropriate registrar of a voter’s change of name or address. An online voter registration application must be received by

the Secretary of State by midnight on the 21st day before the election and must be transmitted to the registrar's office on a daily basis. An individual who uses the online application to register to vote must satisfy the signature requirement of State election law by submitting a current and valid Maine driver's license number or a non-driver identification card number. If neither document is available, the individual must submit an electronic image of the applicant's signature. The online voter registration application must be designed to prevent an applicant from registering to vote unless the applicant discloses a valid Maine driver's license number, non-driver identification number, or the last four digits of the applicant's social security number.

74. LD 1363 – An Act To Amend the Laws Governing Elections. P.L. 2021, ch. 273.

Of municipal interest, this Act: (1) clarifies that the elections to be determined by ranked-choice voting include primary elections for federal and State offices, including the office of the Governor; general and special elections for federal offices; and the primary election for the President of the United States; (2) describes the security measures that must be in place to utilize absentee ballot drop boxes and implements a procedure authorizing a municipality to obtain and use absentee ballot drop boxes at multiple locations within a community's boundaries, subject to the approval of the Secretary of State; and (3) creates a process for allowing a voter to cure a discrepancy with a returned absentee ballot. (To summarize ranked choice voting in Maine: Ranked choice voting is used in State and federal primary elections and in federal general elections. It cannot be used in State Representative, State Senate or Governor general elections unless and until the Maine Constitution is amended. *Cf. Maine Senate v. Secretary of State*, 2018 ME 52.)

75. LD 1536 – An Act Regarding Municipal Public Hearings on Citizen-initiated Municipal Referenda. P.L. 2021, ch. 185.

This Act requires that the public hearing held by municipal officers on a referendum question initiated by written petition include a discussion on the merits of the proposal for which the referendum was initiated.

76. LD 1575 – An Act To Improve Maine's Election Laws. P.L. 2021, ch. 246.

This Act amends the election laws by: (1) allowing an individual who is registering to vote to verify the individual's identity with a student photographic identification that is issued by a State-approved public or private school or by a duly authorized institution of higher learning that is located and operates in Maine; (2) directing the Secretary of State to prepare instructions describing the reasons a voter may request and receive an absentee ballot after the period for no-excuse absentee voting has ended and requires municipalities to include these instructions on a sign posted at the municipal office and on any website, social media page or other media that the municipality uses to communicate election information; (3) requiring the municipal clerk to include in the voting place report the location of each secured drop box and the times for in-person absentee voting in the municipality; (4) authorizing the Secretary of State to adopt rules governing pollwatchers, additional party workers and others present in the polling place; and (5) clarifying that absentee ballots may not be counted until after: (a) the polls have closed on election day; (b) all election day ballots have been cast; and (c) all absentee ballots have been processed.

C. LABOR & EMPLOYMENT

Employee Rights & MHRA Legislation

77. LD 1167 – An Act Relating to Fair Chance in Employment. P.L. 2021, ch. 404.

This Act prohibits an employer from requesting criminal history record information on an initial employee application form or state on the application form or advertisement that a person with a criminal history may not apply or will not be considered for employment prior to determining if a person is otherwise qualified for the position. The Act provides exceptions to the prohibitions, including instances in which federal or State law, regulation or rule mandates that a criminal conviction disqualifies an applicant, or imposes an obligation on an employer not to hire an applicant who has been convicted of a certain type of offense. The Act does permit employers to inquire about an applicant's criminal history record information during an interview or after an applicant has otherwise been deemed qualified for the position, provided that the applicant has an opportunity to explain such information. An employer who violates this prohibition is subject to a penalty of not less than \$100 nor more than \$500 for each violation.

Public Employees Legislation

78. LD 189 – An Act To Permit All Public Employers To Implement Payroll Deductions for Disability and Life Insurance Policies. P.L. 2021, ch. 102.

This Act authorizes a public employer to make payroll deductions designated in writing by a public employee for disability and life insurance offered in conjunction with the employee's membership in an employee organization recognized by the employer or designated by a collective bargaining agreement. Employees may rescind such authorization with 30 days' written notice to employers.

79. LD 467 – An Act To Support E-9-1-1 Dispatchers and Corrections Officers Diagnosed with Post-traumatic Stress Disorder. P.L. 2021, ch. 419.

This Act adds corrections officers and E-9-1-1 dispatchers to the list of employees for whom there is a rebuttable presumption under the laws governing workers' compensation when the employee is diagnosed by a designated medical professional as having post-traumatic stress disorder resulting from work stress that was extraordinary and unusual in comparison to average employee's experience and when the work stress is the predominant cause of such disorder and is presumed to have arisen out of and in the course of the employee's employment.

80. LD 573 – An Act Concerning Records of the Employment of Law Enforcement Officers and Corrections Officers. P.L. 2021, ch. 256.

This Act requires an applicant for employment to a law enforcement agency, correctional facility or county or regional jail to sign a request for employment records when the applicant is currently employed by or was employed by within the preceding 90 days another law enforcement agency, facility or jail. For the purposes of the employment application, the request form must include a waiver of any rights the applicant has to the privacy of employment records. The form must be signed by the applicant and the signature witnessed. The Act also requires an agency, facility or jail

that performs a polygraph examination on a law enforcement officer or corrections officer to release the results of the examination to the head of the agency, facility or jail that employs the officer if the results indicate probable cause to believe that the officer is or has been involved in criminal activity. Lastly, the Act defines employment records as, “personnel, employment and any other records pertaining to an applicant’s employment and job performance with the employing agency, but does not include any internal investigative records of the employing agency relating to the applicant.”

81. LD 824 – An Act To Extend the Protections Provided to State Employees upon the Expiration of Labor Contracts to Other Public Sector Employees. P.L. 2021, ch. 282.

This Act extends existing State employee protections to municipal, judicial and public higher education employees that require employees to remain eligible for and receive merit or step increases in accordance with the terms and conditions set forth in an expired collective bargaining agreement during the period between the expiration of one contract and the adoption of a new contract.

Employment Benefits & Standards Legislation

82. LD 61 – An Act To Include Grandparents under Maine’s Family Medical Leave Laws. P.L. 2021, ch. 189.

This Act allows an employee to request family medical leave in order to care for his/her grandchild or his/her domestic partner’s grandchild who has a serious health condition.

83. LD 137 – An Act Regarding Absence from Work for Emergency Response. P.L. 2021, ch. 67.

Current law requires that in order to avoid being subject to discharge or discipline for failure to report for work or being absent when responding to an emergency, an employee who is also a firefighter must have presented to the employer within 30 days of employment a copy of a fire department or emergency medical services provider policy that specifies the circumstances under which the employee is needed to respond to an emergency and that affirms that the employee will be released as soon as practicable. This Act removes the requirement that the employee present a copy of such policy within 30 days of employment and instead requires that the employee present the copy within 30 days of notifying the employer of the employee’s status as a firefighter or emergency medical services person. The Act also corrects a technical error to include a reference to “emergency services person” in the provision that identifies individuals designated as essential for purposes of this Act.

84. LD 1103 – An Act To Allow a 5-year Open Enrollment in the Participating Local District Retirement Program for Certain Law Enforcement Officers, Firefighters and Other Municipal Employees. P.L. 2021, ch. 286.

This Act allows employees to enroll in the Participating Local District Retirement Program up to and including in that employee’s fifth year employment anniversary through an annual open enrollment beginning September 1, 2022. It also provides a one-time election for participating local district employees whose five-year work anniversary has passed, provided that such election is made by November 1, 2021.

Workers' Compensation Legislation

- 85. LD 213 – An Act To Require Coverage for Female Firefighters Facing Reproductive System Cancer. P.L. 2021, ch. 325 (Mandate).**

This Act adds gynecologic cancer to the list of rebuttable presumptions of workplace injury suffered by a firefighter under the Maine Workers' Compensation Act of 1992.

D. LAND USE, ZONING, PLANNING & REAL ESTATE

Zoning & Planning Legislation

- 86. LD 609 – Resolve, To Establish a Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions. Resolves 2021, ch. 59 (Emergency Effective 6/15/21).**

This Resolve establishes the 15-member Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions. The commission is directed to review data on housing shortages in the State for low-income and middle-income households; State laws that affect the local regulation of housing, including but not limited to municipal incentives, State mandates, eliminating or limiting single-family-only zones and allowing greater housing density near transit, jobs, schools or neighborhood centers; and efforts in other states and municipalities to address housing shortages, increase housing options and assess the role race and racism play in zoning policies. The commission must submit a report, including suggested legislation, to the Labor and Housing Committee no later than November 3, 2021.

- 87. LD 1161 – An Act Concerning Marina-based Restaurants in the Shoreland Zone. P.L. 2021, ch. 336.**

This Act authorizes municipalities to adopt ordinances that allow the expansion of an existing restaurant that is part of a marina that has been permitted in accordance with all applicable State and local requirements, provided the expansion is not located over a water body or wetland, is not located any closer to the water body or wetland than the existing restaurant and, except for the water and wetland setback requirements, meets all other State and local permit requirements and complies with all other applicable rules. The Act specifies that the expansion may be allowed if the restaurant and the marina of which the restaurant is a part have both been in existence as of January 1, 2021.

- 88. LD 1530 – An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling. P.L. 2021, ch. 219**

This Act requires municipalities to allow a tiny home to be placed on an individual house lot where single-family dwellings are allowed or as an accessory structure, provided the home is in compliance with all applicable land use requirements.

Permitting Legislation

- 89. LD 69 – An Act To Reduce Duplicative Permitting Review for Projects under the Site Location of Development Laws. P.L. 2021, ch. 51.**

Under current site location development laws, a structure that is from 3 acres to 7 acres is exempt from review, provided that certain criteria are met, including that the municipality has a site plan review ordinance. This Act increases the upper limit to 10 acres.

- 90. LD 1028 – An Act To Ease Business Expansion by Increasing the Number and Applicability of Permit Exemptions under the Site Location of Development Laws. P.L. 2021, ch. 123.**

Under current law, new construction at a licensed manufacturing facility and new construction at or modification of a campus of an educational institution is exempt from review under the laws governing site location of development if certain criteria are met. This Act amends those exemptions by increasing the amount of the disturbed land not to be revegetated from 30,000 to 40,000 square feet in any calendar year and from 60,000 to 80,000 square feet in total.

E. LAW ENFORCEMENT & PUBLIC SAFETY

Animal Welfare Legislation

- 91. LD 103 – An Act To Improve the Animal Welfare Laws. P.L. 2021, ch. 99.**

Of municipal interest, this Act: (1) changes the rabies vaccination requirement to provide that an owner or keeper of a dog must have the dog vaccinated within 30 days of attaining the age of three months; (2) provides that an owner or keeper of a dog is exempt from the rabies vaccination requirement if a medical reason exists that precludes the vaccination of the dog; (3) adds dangerous and nuisance dogs to those animals that are excluded from obtaining dog licenses through the internet licensing project; and (4) provides for the revocation of an animal control officer's certification for refusing to perform statutory duties. The Act also: (1) amends the laws pertaining to agriculture and animals to allow the Commissioner of Agriculture, Conservation and Forestry to employ any person considered necessary to assist in any response to a natural or man-made disaster affecting animals both in the State and outside the State and provides for such a person's compensation; (2) allows the Animal Welfare Advisory Council to have as a member a person who is a pet food supplier and an attorney with prosecutorial experience in the State court system; and (3) amends animal welfare laws to define "animal care facility" and to provide that the definition of "boarding kennel" applies to all privately owned animals that are kept for a fee.

Criminal Justice Legislation

- 92. LD 132 – An Act To Implement the Attorney General's Recommendations on Data Collection in Order To Eliminate Profiling in Maine. P.L. 2021, ch. 460.**

Beginning on July 1, 2023, this Act requires law enforcement agencies to collect data regarding traffic violation stops and to submit information regarding race, color, ethnicity, gender and age of each person involved in the stop based on the observation and perception of the officer responsible

for reporting the stop, the reason for the stop and whether a warning or citation was issued, an arrest made or search conducted. The information must be submitted to the Attorney General, who is directed to submit a publicly accessible report including recommendations for changes in laws, rules and practices to the Committee on Judiciary.

93. LD 448 – An Act Regarding Recording of Witness Interviews. P.L. 2021, ch. 381.

This Act directs the Board of Trustees of the Maine Criminal Justice Academy to adopt minimum policy standards regarding the recording and preservation of witness interviews conducted by law enforcement officers in murder investigations and Class A, Class B and Class C crime investigations. Law enforcement agencies are required to adopt policies containing at least the minimum policy standards, which may not require the recording of all witness interviews, but must factor in the feasibility of recording individual interviews, taking into account the circumstances of the witness, the time and place of the interview and the crime, as well as the capability of the law enforcement agency to record the interview.

94. LD 477 – An Act To Allow for Fair Restitution by Providing that Restitution Includes the Cost of Analysis of Suspected Illegal Drugs If the Defendant Was Convicted of Trafficking and Was Motivated by Profit. P.L. 2021, ch. 296.

This Act requires that a defendant be convicted of trafficking a scheduled drug and a court determine the defendant was motivated by profit in order for the cost of the analysis of suspected illegal drugs to be considered a critical investigation expense for the purposes of restitution.

95. LD 521 – An Act To Modify the Rule-making Process for Establishing County and Municipal Jail Standards. P.L. 2021, ch. 171.

This Act requires that the standards established by the Commissioner of Corrections impacting the operations and administration of county jails and municipal detention facilities be evidenced-based, take into consideration cost impacts and reflect best practices.

96. LD 644 – An Act Regarding Motor Vehicle Registration Violations. P.L. 2021, ch. 427.

This Act provides that a person who operates an unregistered vehicle, fails to register a vehicle or operates an unregistered vehicle on a public way commits a traffic infraction for which a \$100 fine must be adjudged for a first offense if the registration has been expired for 150 or more days, and \$500 for each subsequent offense. Operation of a vehicle that has never been registered by the current owner, or failure to register a vehicle from another state more than 150 days after establishing residency is a Class E crime. The Act also provides a process to dismiss an alleged violation if the person shows satisfactory evidence that the vehicle was registered at the time of the violation or is registered prior to the date for answering the complaint.

97. LD 661 – An Act To Ensure Equity in Petitions for Rulemaking under the Maine Administrative Procedure Act. P.L. 2021, ch. 257.

This Act sets the number of signatures for petitions for rulemaking submitted by persons incarcerated in a Department of Corrections (DOC) facility, county jail or municipal detention facility at 150 or 25% or more of the total number of males or females incarcerated in the facility, whichever is fewer. The Act clarifies that the DOC is not required to initiate rulemaking if an earlier petition to adopt or modify the rule was received within the previous 12 months.

98. LD 1593 – An Act To Provide Pathways to Rehabilitation, Reentry and Reintegration. P.L. 2021, ch. 376.

This Act directs the Commissioner of the Department of Corrections (DOC) to adopt rules establishing criteria and a process for determining eligibility under the supervised community confinement program, as well as to streamline the eligibility process for an incarcerated individual who has a terminal or severely incapacitating medical condition if care outside a correctional facility is medically appropriate. The Act also requires the DOC to provide information about the program to inmates and to track data on inmates who apply, including demographic data regarding race and ethnicity, gender, age and convictions leading to the inmate’s current incarceration.

Police/Fire/Rescue Legislation

99. LD 28 – An Act To Update the Silver Alert Program To Include Missing Endangered Persons. P.L. 2021, ch. 62.

This Act updates the existing Silver Alert Program within the Department of Public Safety. The language, previously limited to “missing senior citizens,” is now broadened to “missing endangered persons.” Under the terms of the Act, a “missing endangered person” is defined as a person who is believed to be in danger because of: (1) the person’s age, mental or physical health or intellectual or developmental disability; (2) environmental or weather conditions; or (3) unexplained, involuntary or suspicious circumstances as determined by a local law enforcement agency.

100. LD 180 – Resolve, Regarding the Storage of Consumer Fireworks. Resolves 2021, ch. 96.

This Resolve directs the State Fire Marshal to convene a stakeholder group, including municipal officials from impacted communities and a representative of the Maine Municipal Association, to review federal and State requirements for the storage of consumer fireworks by businesses that sell fireworks. No later than November 1, 2021, the fire marshal is further directed to report the findings and recommendations of the stakeholder group to the Committee on Criminal Justice and Public Safety, which is authorized to submit related legislation for consideration in 2022.

101. LD 242 – An Act To Support the Maine Fire Protection Services Commission. P.L. 2021, ch. 413.

This Act provides \$328,147 in one-time funding to the Board of Trustees of the Maine Community College System to support the Maine Fire Service Institute, which provides funding,

awarded through grants by the Maine Fire Protection Services Commission, for construction and repair or replacement of regional live fire service training facilities.

102. LD 346 – An Act Requiring the Use of Propane and Natural Gas Detectors. P.L. 2021, ch. 194.

This Act requires owners of certain buildings to install, in accordance with the manufacturer’s requirements, at least one approved fuel gas detector in every room containing an appliance fueled by propane, natural gas or any liquefied petroleum gas. The requirement impacts multifamily housing, fraternity, sorority or dormitory housing affiliated with an educational facility, a children’s home, emergency shelter or resident care facility, a hotel, motel or inn, a mixed-use occupancy that contains a dwelling unit, businesses and a unit of assembly.

103. LD 505 – An Act To Expand the Disciplinary Authority of the Board of Trustees of the Maine Criminal Justice Academy. P.L. 2021, ch. 255.

This Act broadens the powers and duties of the Board of Trustees of the Maine Criminal Justice Academy to require the adoption of rules for standards of conduct that subject an applicant for a certificate or a certificate holder to disciplinary action for a violation. The Act also requires that any action taken by the board as a result of a complaint, charge or accusation must be supported by a statement of findings and issued as a written decision of the board, both of which are public records under the Freedom of Access Act.

104. LD 513 – An Act Regarding the Citizen Members and the Complaint Review Committee of the Board of Trustees of the Maine Criminal Justice Academy. P.L. 2021, ch. 196.

This Act expands the membership of the Board of Trustees of the Maine Criminal Justice Academy’s complaint review committee from three to five and the number of members who are citizens from one to two, and further allows deliberations when a majority of the members of the committee, including at least one citizen member, is present. The Act also defines a “citizen member” as an educator, municipal official or citizen who is not and never has been a sworn member of a law enforcement agency.

105. LD 560 – An Act To Amend the Safe Haven Laws. P.L. 2021, ch. 466.

This Act amends the safe haven laws regarding abandoned children by including a safe haven baby box to the list of safe havens that a person may deliver a newborn child to under the Child and Family Services and Child Protection Act and to serve as an affirmative defense to the criminal offense of the abandonment of a child. A safe haven baby box is a device or container that can safely accept delivery of a newborn child that is located in a hospital, law enforcement facility or fire department facility that is staffed 24 hours a day by a medical services provider. This Act also directs the Department of Health and Human Services to adopt rules governing the design, installation and use of safe haven baby boxes to ensure necessary safety specifications are met.

106. LD 563 – Resolve, To Create the Criminal Records Review Committee. Resolves 2021, ch. 121.

This Resolve establishes the Criminal Records Review Committee, which includes committee seats for the Presidents or respective representatives from the Maine Chiefs of Police Association and Maine Sheriffs' Association, to review options for expunging and sealing criminal records. The review committee is directed to submit a report to the Judiciary Committee by December 3, 2021.

107. LD 662 – An Act To Allow the Use of an Additional Light on the Roof of Vehicles of Active Members of a Municipal or Volunteer Fire Department. P.L. 2021, ch. 113.

This Act allows municipal officers or a designated official, with the approval of the fire chief, to authorize an active member of a municipal or volunteer fire department when responding to an emergency to use one red light bar no more than eight inches in length on the roof of the vehicle so that the light is visible to approaching traffic from the front and the rear of the vehicle.

108. LD 797 – An Act To Create a Registry To Improve Access to Automated External Defibrillators. P.L. 2021, ch. 82.

This Act requires the Director of Maine Emergency Medical Services to establish a registry of publicly accessible automated external defibrillators located within the State for the purpose of assisting a person or a law enforcement officer, firefighter or emergency medical services provider who calls for assistance in an emergency situation.

109. LD 1043 – An Act Concerning the Unannounced Execution of Search Warrants. P.L. 2021, ch. 342.

This Act requires law enforcement agencies to adopt written policies regarding the unannounced execution of search warrants, which must meet the minimum standards adopted by the Board of Trustees of the Maine Criminal Justice Academy.

110. LD 1078 – An Act To Promote Traffic Safety in Emergency Situations. P.L. 2021, ch. 85.

This Act enables a trained unsworn member of a law enforcement agency to serve as a public safety traffic flagger to control vehicular traffic at emergency scenes in the same manner as firefighters and members of emergency medical services control vehicular traffic.

111. LD 1171 – An Act To Curtail No-knock Warrants. P.L. 2021, ch. 267.

This Act defines a “no-knock warrant” as an authority of a law enforcement officer to execute a warrant without first announcing the authority and purpose for the execution of the warrant. The Act also prohibits the use of no-knock warrants except in the event of imminent risk of death or bodily injury to persons and when a recognized exception to the warrant requirement, such as exigent circumstances, allows unannounced entry. An officer executing a no-knock warrant must adhere to two requirements. First, an officer must wear an official uniform and, if provided by the officer's law enforcement agency, a camera worn in accordance with agency policies. Second, only officers who

are trained to use stun grenades, stuns, distractions or similar devices may use such devices in conducting a no-knock warrant where imminent risk of death or bodily harm exists.

**112. LD 1245 – An Act To Ensure the Provision of Adequate Personal Protective Equipment to Firefighters. P.L. 2021, ch. 442
(Emergency Enacted Effective 7/9/21).**

This Act requires municipalities to provide properly fitting protective clothing and equipment to firefighters that meet or exceed the most stringent of requirements of the United States Department of Labor, Occupational Safety and Health Administration or the National Fire Protection Association, including clothing, helmet ensemble, foot, hand and hearing protection, self-contained breathing apparatus, personal alert safety systems and fire service life safety rope, harness and hardware. The Act provides that proper fit should factor sex and options for sizing and tailoring. The Act further requires that firefighters use the provided equipment whenever exposed to the hazards necessitating the equipment. The Act also requires the Maine Department of Labor to notify municipal fire departments and volunteer fire departments and associations of the requirements to provide appropriate protective equipment and the commercial availability of protective equipment for females.

113. LD 1254 – An Act Shielding Fire Departments That Install Smoke and Carbon Monoxide Detectors from Liability. P.L. 2021, ch. 214.

This Act provides immunity from liability to a fire department in the residential installation or delivery of a smoke or carbon monoxide detector under three conditions. First, the device should be new and meet all applicable safety and manufacturing standards and must be installed by a fire department. Second, the device or batteries installed by the fire department are in accordance with manufacturer's instructions. Third, installation or delivery is performed in the fire department's official capacity and authorized by municipal officers.

114. LD 1258 – An Act To Implement the Recommendations of the Stakeholder Group Convened by the Emergency Medical Services' Board Related to Reimbursement Rates for Ambulance Services by Health Insurance Carriers and To Improve Participation of Ambulance Service Providers in Carrier Networks. P.L. 2021, ch. 241.

Until December 31, 2023, this Act requires ambulance services to be reimbursed by a carrier accordingly: (1) 200% of the Medicare rate if the provider participates in the carrier's network; (2) 180% of the Medicare rate if the service provider is out-of-network; (3) if the provider is located in a rural or super rural area and is eligible for additional Medicare reimbursement, the reimbursement is increased by the additional Medicare reimbursement; and (4) if prior to December 31, 2023 the service provider's charge is below 200% of the Medicare rate, the service provider may not increase the charge for that service by more than 5% annually. An insurance carrier shall offer a standard contract to all service providers willing to participate in the carrier's network, provided the contract: (1) reimburses at the rates in place until December 31, 2023; (2) includes a term of not less than 24 months; (3) allows for the termination of the contract if the terminating party provides 180 days' notice; and (4) gives the service provider at least 120 days to submit a claim. The Act also directs the Emergency Medical Services' Board to: (1) adopt rules and protocols evaluating the need for new ambulance services before granting a license; (2) establish a program, by rule, for collecting and reporting costs and performance metrics related to emergency medical treatment services, including ambulance services; and (3) convene a stakeholder group including representation from municipal ambulance services

providers, to review issues related to financial health, cost and delivery of ambulance services in the State and submit its findings and recommendations to the Committee on Health Coverage, Insurance and Financial Services no later than February 1, 2023.

115. LD 1290 – An Act To Amend the Statement of Purpose of the Maine Emergency Medical Services Act of 1982 To Include Emergency Responses That Do Not Require Transportation. P.L. 2021, ch. 159.

This Act expands the language within the Statement of Purpose of the Maine Emergency Medical Services Act of 1982 to include both “treatment and nontransport under appropriate medical guidance” among other elements of an emergency medical services system.

116. LD 1306 – Resolve, To Facilitate the Inclusion of Crisis Response Services in Emergency Services Offered through the E-9-1-1 System. Resolves 2021, ch. 29.

This Resolve directs the Public Utilities Commission, Emergency Services Communications Bureau to research and review protocols and procedures necessary to ensure the delivery of crisis response services under the State’s E-9-1-1 system and to submit a report on or before February 1, 2022 to the Committee on Energy, Utilities and Technology outlining necessary protocols and procedures, including any recommendations needed to implement those protocols and procedures. The committee is authorized to submit related legislation for consideration in 2022. This resolve additionally provides a one-time \$100,000 allocation for consulting services to the Emergency Services Communication Bureau under the Public Utilities Commission.

117. LD 1316 – An Act To Provide Funding for the Maine Length of Service Award Program. P.L. 2021, ch. 444.

This Act provides a one-time \$500,000 general fund appropriation in FY 22 for the Maine Length of Service Award Program to provide awards to eligible volunteer firefighters and emergency medical services personnel.

118. LD 1364 – Resolve, To Study Incentives for Residential Fire Sprinkler Systems. Resolves 2021, ch. 97.

This Resolve directs the State Fire Marshal to convene a task force, including representation from municipal firefighters, to study incentives for developers, builders and home buyers to install residential sprinklers. The Resolve further directs the State Fire Marshal to report findings and recommendations to the Committee on Criminal Justice and Public Safety by December 1, 2021, which is authorized to submit related legislation for consideration in 2022.

119. LD 1478 – An Act To Require the Use of Homelessness Crisis Protocols by Law Enforcement Agencies. P.L. 2021, ch. 393.

This Act directs the Attorney General to develop a model homelessness crisis protocol for proposed adoption by law enforcement agencies to be implemented when an officer interacts with a homeless individual engaging in a “listed offense,” which includes criminal trespass, disorderly or indecent conduct, public drinking or possession of a scheduled drug. Law enforcement agencies are required to adopt homelessness crisis protocols and may, but are not required, to conform to the

model protocol adopted by the Attorney General. The Act further requires a homelessness crisis protocol to include the process by which crisis services, mental health and substance use disorder professionals, emergency and transitional housing and case management services are accessed.

120. LD 1480 – An Act Regarding the Review of Law Enforcement Use of Deadly Force. P.L. 2021, ch. 353.

This Act requires the Attorney General (AG) to complete an investigation of and submit findings regarding the use of deadly force by a law enforcement officer to the AG's Deadly Force Review Panel within 180 days of receiving notice of the use of deadly force. The AG is required to provide notice to the panel if the investigation is not completed within 180 days and provide a summary of the investigation up to the date of the notice, identify the reason for the delay and provide an anticipated conclusion date of the process, which may not exceed 270 days from receiving notice of the use of deadly force. The Act also amends the Intelligence and Investigative Record Information Act to make it clear that the Act does not preclude the public dissemination of a portion of a video in the custody of the AG depicting the use of deadly force by law enforcement when the public interest in the evaluation of the use of deadly force and the review and investigation of those incidents by the AG outweighs the harms contemplated by State statutes. The Act also requires the AG to issue a decision on whether to release a video no later than 30 days after receiving a request for release and to provide written notice detailing the basis for any denial, a time frame for release of all or part of the video and the process to appeal the decision.

121. LD 1585 – An Act To Increase Privacy and Security by Regulating the Use of Facial Surveillance Systems by Departments, Public Employees and Public Officials. P.L. 2021, ch. 394.

This Act provides a structure for requests from State, county and municipal government agencies, public employees and public officials for facial surveillance searches, allows uses of the results of facial surveillance searches and specifies the manner in which requests for searches must be made to the Department of the Secretary of State, Bureau of Motor Vehicles and the Department of Public Safety, Bureau of State Police. The two bureaus are further directed to maintain de-identified records of requested and performed searches and designates those records as accessible to the public. The Act also clarifies that facial surveillance data does not, without other evidence, establish probable cause justifying arrest, search or seizure. Additionally, in circumstances where the Act is violated by a department, public employee or public official acting within the scope of official duties, facial surveillance data collected is inadmissible in evidence in any proceeding in or before any public official, department, regulatory body or authority. The Act delays implementation of the measure to October 1, 2021.

122. LD 1605 – An Act To License Ambulance Drivers who Are Not Licensed To Provide Emergency Medical Services. P.L. 2021, ch. 220.

This Act directs the Medical Services Board to adopt rules governing qualifications and licensing requirements for and standards to be observed by emergency medical services ground ambulance operators, who are defined as operators of ambulances in emergency mode or patient transport who are not licensed as emergency medical persons.

Public Health & Safety Legislation

123. LD 78 – An Act To Protect Children from Extreme Poverty by Preserving Children’s Access to Temporary Assistance for Needy Families Benefits. P.L. 2021, ch. 97.

Under current law, the Department of Health and Human Services terminates assistance provided under the Temporary Assistance for Needy Families program to an entire family, including children, if the children’s parent fails to comply with requirements of the family contract for a period of 90 days or for any subsequent failure. This Act repeals the provision and requires that assistance continue to be provided to children and complying parents.

124. LD 268 – An Act To Eliminate Online Burn Permit Fees for All Areas of the State. P.L. 2021, ch. 414.

Currently, burn permits can be obtained via the State’s online platform for a \$7 fee, of which \$2 is transferred to the municipality where the permit is issued. This Act repeals the fee and the provision in law prohibiting a vendor or owner of a burn permit software system from charging a municipality for use of the software.

125. LD 488 – Resolve, To Expand Recovery Community Organizations throughout Maine. Resolves 2021, ch. 46 (Emergency Enacted Effective 6/11/21).

This Resolve requires that the Department of Health and Human Services give preferences in funding to recovery community centers proposed for counties with no state-funded or other recovery community centers. In addition, DHHS must appear periodically before the joint committee of the Legislature with jurisdiction over DHHS to report on the geographic distribution of recovery community centers.

126. LD 514 – An Act To Establish and Promote a System of Safe Disposal of Expired Marine Flares. P.L. 2021, ch. 422.

This Act establishes within the Department of Public Safety programs for the collection and disposal of expired marine flares and for education of the public and State agency personnel regarding expired marine flares. A participating municipal fire department may designate the area from which it will accept marine flares.

127. LD 964 – An Act To Expand Access to Certified Substance Use Disorder Recovery Residence Services. P.L. 2021, ch. 472.

Beginning July 1, 2022, this Act allows a person residing in a recovery residence that is not certified to receive housing assistance under the municipal general assistance (GA) program for one 30-day period and requires the GA director to inform the person that the law requires certification of the recovery residence in order to issue housing assistance under the GA program. The Act also requires the Department of Health and Human Services to amend its rules to establish appropriate maximum housing assistance levels for eligible persons residing in recovery residences that take into account the additional costs of recovery residences compared to other shared housing arrangements, as well as the fair market rents established by the United States Department of Housing and Urban Development that are used to establish maximum housing assistance levels under the GA program.

128. LD 1009 – Resolve, To Create the Working Group To Design Jail Resource Navigator Services for Maine County Jails. Resolves 2021, ch. 100.

This Resolve creates a working group directed to design a jail resource navigator services program to ensure that all county jails have access to needed services, including inmate health care, mental health care and substance use disorder treatment. The working group must, no later than January 15, 2023, submit a report to the Committee on Criminal Justice and Public Safety, which is authorized to submit related legislation for consideration in 2023.

129. LD 1010 – An Act To Establish the Maine Service Fellows Program. P.L. 2021, ch. 155.

This Act establishes the Maine Service Fellows Program under the Maine Commission for Community Services, designed to engage program participants in devoting a year of service to Maine communities. The commission is directed to implement the program to attract and retain motivated adults who have completed a college degree within the prior five years to apply their skills and abilities to projects for the benefit of Maine citizens; provide rural and underserved Maine communities a resource to address critical health, public safety, education and environmental needs; and strengthen civic engagement of both the program fellows and community residents through solutions based in whole or in part in volunteer service. The commission is directed to establish an advisory committee to guide the launch of the program, including representation from town managers, regional planning organizations, rural government leaders, not-for-profit organizations and MMA. Provided funding is available, within 180 days following the effective date of this Act, the commission must seek to establish the first class of 10 program fellows who agree to participate in the program for up to 1,800 hours over a 12-month period beginning in 2022.

130. LD 1333 – An Act Concerning the Controlled Substances Prescription Monitoring Program and the Dispensation of Naloxone Hydrochloride by Emergency Medical Service Providers. P.L. 2021, ch. 161 (Emergency Enacted Effective 6/11/21).

In part, this Act authorizes emergency medical services, ambulance services and non-transporting emergency medical services providers to dispense naloxone hydrochloride to an individual who is at risk of experiencing an opioid-related drug overdose or to the individual's immediate family, a friend of the individual or another person in a position to assist the individual.

131. LD 1718 – An Act To Establish the Accidental Drug Overdose Death Review Panel. P.L. 2021, ch. 292 (Emergency Enacted Effective 6/21/21).

This Act establishes the Accidental Drug Overdose Death Review Panel, including a police chief, to review a subset of deaths caused by accidental drug overdoses and to recommend to State, county and local agencies methods of preventing deaths, including modification or enactment of laws, rules, policies and procedures.

F. MUNICIPAL FINANCE

Budget Legislation

132. LD 221 – An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2021, June 30, 2022 and June 30, 2023. P.L. 2021, ch. 398 (Emergency Enacted Effective 7/1/21).

Of municipal interest, the FY 22 – FY 23 supplemental General Fund budget: (1) increases State funding for K-12 education to \$1.3 billion, enabling the State to meet its requirement to fund 55% of the cost of public education as calculated by the Essential Programs and Services model and sets the mil rate expectation at \$7.26; (2) increases the amount of State sales and income tax revenue shared with municipalities from 3.75% to 4.5% in FY 22 and to 5% in FY 23; (3) beginning with the April 1, 2022 property tax year, increases reimbursement under the Homestead Exemption program by 3% annually; (4) transfers \$45 million to the Maine Municipal Bond Bank for the School Revolving Renovation Fund; and (5) provides \$30 million to abate, clean-up or mitigate the threats or hazards associated with PFAS contamination. The Act also implements the ongoing absentee voter status system, which as of November 1, 2023 allows voters who are at least 65 years of age before the next election or who self-identify as having a disability to apply for ongoing absentee voter status requiring the automatic distribution of a ballot for each ensuing election until the voter is no longer eligible. Finally, the Act dedicates three additional staff to the Governor’s Office of Policy Innovation and the Future, who are directed to support municipal level efforts to address resilience planning, climate adaption and affordable and workplace housing deficiencies.

133. LD 1733 – An Act To Provide Allocations for the Distribution of State Fiscal Recovery Funds. P.L. 2021, ch. 483.

This Act directs the investment of Maine’s share of federal funding under the American Rescue Plan Act of 2021. Of municipal interest the Act invests:

- \$44.5 million to accelerate weatherization and efficiency upgrades for homes in the State, especially for low-income, older residents and renters, by providing matching funds to municipal, county, school and community organizations to secure efficiency grants.
- \$5 million for a competitive grant program that matches local funding for the upgrade of municipal culverts at stream crossings;
- \$5 million for the treatment of drinking water, environmental testing and management of PFAS substances;
- \$50 million to expand affordable housing options and, in part, to provide planning and technical assistance for communities, developers and builders to encourage construction or production of affordable, energy-efficient housing units close to services and employment centers to support individuals, families and State workforce needs;

- \$21 million for the expansion of affordable high-speed broad-band access in the State;
- \$8 million to expand State, municipal and other publicly accessible electric vehicle charging stations and related infrastructure;
- \$20 million for municipal, regional and State infrastructure adaptation improvements that support public safety and emergency management and infrastructure resiliency;
- \$5 million to support initiatives and competitive grants for local, regional and State workforce transportation pilot projects aimed at connecting workers to employment opportunities;
- \$22 million for municipal wastewater and infrastructure projects;
- \$3 million for the Small Community Grant Program, which supports septic repair and replacement projects; and
- \$25 million to expand efforts to address imminent risk to public health through investment in public water system improvements, including mitigation of lead in drinking water at schools and daycare facilities.

The Act also reinstates Maine’s elderly property tax deferral program, which authorizes the State to pay all or a portion of the property taxes owed by Maine residents meeting certain age, income, employment and asset standards. In exchange for paying the property taxes owed, the State retains a non-foreclosing lien on the property.

Economic Development Legislation

134. LD 340 – An Act To Allow for the Establishment of Commercial Property Assessed Clean Energy Programs. P.L. 2021, ch. 327.

This Act authorizes municipalities to adopt commercial property assessed clean energy (PACE) ordinances to help finance up to 100% of energy savings improvements to qualifying commercial properties, to be administered either by the municipality or the Efficiency Maine Trust. The Act provides that the written consent of a financial institution holding a lien, mortgage or security interest in or other collateral encumbrance on a property for which a commercial PACE assessment is sought and filed with the registry of deeds, must also include a written acknowledgement and understanding by the financial institution regarding the priority status provided to commercial PACE liens, the sale or foreclosure process applicable to commercial PACE liens and the financial institution’s voluntary consent to the enrollment of the subject property in the commercial PACE program. The Act also specifies that, in the event a commercial PACE assessment is delinquent but the borrower or property owner is otherwise current on payment of all municipal taxes due to the municipality offering the commercial PACE program the property is enrolled in, then a commercial PACE lienholder must accept from the municipality an assignment of the commercial PACE lien. Following that assignment, the commercial PACE lienholder has and possesses all the same powers

and rights in law as the municipality and its tax collector with regards to the commercial PACE lien, including the right to enforce the lien through foreclosure.

135. LD 857 – An Act To Create a Municipal Grant Program To Promote Sustainable Economic Development. P.L. 2021, ch. 319.

This Act establishes the Municipal Grant Fund to provide competitive grant funding for projects that further the goals of sustainable economic development as outlined by the Maine Economic Growth Council in the council’s annual “Measures of Growth” report and by the economic development strategy for the State as administered by the Department of Economic and Community Development.

136. LD 953 – An Act To Improve Affordable Housing Options and Services To Address Homelessness. P.L. 2021, ch. 261.

This Act permits a municipality to invest tax increment financing (TIF) revenue outside of a Municipal Tax Increment Financing District to fund the costs associated with the development and operation of: (1) affordable housing in the municipality to serve ongoing economic development efforts, including the further development of the downtown TIF district; and (2) housing programs and services to assist those who are experiencing homelessness as defined in the community’s development program. This Act further repeals and replaces the entirety of Section 5225(C) of Title 30-A, which sets forth the use of TIF revenues for projects that relate to economic development, environmental improvement, recreational trails, broadband service and employment training.

G. SCHOOL LAW

General School Legislation

137. LD 44 – An Act To Require the Department of Education to Report Annually on Summer Educational Programs. P.L. 2021, ch. 32.

This Act directs the Department of Education to report annually by November 15, 2021 to the Education and Cultural Affairs Committee on summer educational programs. The report must include information regarding: (1) the number of school administrative units administering and students participating in the programs; (2) partnerships with community based organizations to implement programs; and (3) sources of funding for the programs. The report must also include recommendations and suggested legislation to improve summer education programs and identify funding needed for the same.

138. LD 815 – An Act To Support School Decarbonization. P.L. 2021, ch. 152.

Current law requires the Efficiency Maine Trust to develop and administer a school energy savings program. This Act changes the program to a school decarbonization program and requires the trust to provide technical and financial support to help kindergarten to grade 12 schools become carbon neutral. The Act also repeals the school solar energy program administered by the trust.

139. LD 816 – An Act To Improve Communication between School Board Members and School Employees and Members of the Public. P.L. 2021, ch. 281.

This Act requires a school board to regularly communicate with school employees in the school board’s school administrative unit (SAU) and members of the public who reside within the boundaries of the SAU.

**140. LD 1188 – An Act To Include Career and Technical Education Teachers in the Minimum \$40,000 Salary Initiative. P.L. 2021, ch. 441
(Emergency Enacted Effective 7/9/21).**

This Act amends the \$40,000 teacher salary initiative to include certified teachers and career and technical education teachers. By December 1, 2021, the Act also directs the Department of Education (DOE) to report to the Committee on Education and Cultural Affairs on the status and progress being made toward the minimum teacher salary initiative, as well as the verification that all intended positions are included in the salary initiative. If the DOE identifies any areas of deficiency, a plan for remediation must be included in the report to the committee, which is authorized to submit related legislation for consideration in 2022.

141. LD 1323 – An Act To Maximize Services to Students by Adopting Conditional Allowances for Participation by Families of School Board Members in School Activities. P.L. 2021, ch. 242.

Current law prohibits school board members and their spouses from participation in a school activity, whether as a volunteer or for payment. This Act allows the spouses of school board members to serve as a “stipend employee,” being one who only receives small amounts of compensation for performing advisory, mentoring, or coaching activities, or as a volunteer. This Act further provides that a school may adopt a written policy on nepotism that includes this allowance, discourages favoritism and political patronage, considers the needs of the school system and provides that all qualified applicants have a fair and equal opportunity to be selected on merit.

School Finance Legislation

142. LD 1198 – An Act Authorizing an Increase to the Maximum Annual Fund Balance for Public School Districts. P.L. 2021, ch. 213.

This Act allows school boards to carry forward 5% of the previous year’s school budget without reduction of the State and local share of the total allocation for the purpose of computing State subsidy, to carry forward unallocated balances in excess of 5% of the previous year’s school budget and disburse those funds in the next year or over a period not to exceed three years. The carry-forward limit is established at 9% for fiscal years 2022 through 2025.

H. TAXATION

Property Tax Legislation

143. LD 179 – Resolve, To Require a Review of Property Tax Assessment of Energy Efficiency Improvements. Resolves 2021, ch. 93.

This Resolve requires Maine Revenue Services to convene a stakeholder group to review the assessment of energy efficiency improvements, including heat pumps, for the purpose of identifying the most appropriate ways to assess such property for the purposes of property taxation.

144. LD 191 – An Act To Permit Municipalities To Provide Assistance to Veterans in Paying Property Taxes. P.L. 2021, ch. 69.

This Act authorizes municipalities to adopt a program that provides benefits to veterans and their eligible family members who own or rent a homestead in the municipality. The benefit for owners is based on the impact property tax equalization has on the amount received as a property tax exemption compared to the amount that would have applied if no equalization were applied. The benefit for renters is \$100. The Act further provides that an eligible claimant must have maintained a homestead in the municipality for a certain period of time, as determined by the municipality.

145. LD 198 – An Act To Improve Maine’s Tax Laws by Providing a Property Tax Exemption for Central Labor Councils. P.L. 2021, ch. 410.

This Act provides a property tax exemption for the real estate and personal property owned by central labor councils and occupied or used solely for their own purposes.

146. LD 897 – An Act To Allow Municipalities To Set Below-market Interest Rates for Senior Citizen Property Tax Deferral Programs. P.L. 2021, ch. 120.

This Act authorizes a municipality that has implemented a property tax deferral program for senior citizens to adopt an interest rate on deferred property taxes that is less than the rate established in statute.

147. LD 1132 – An Act To Encourage the Renovation of Available Housing Stock. P.L. 2021, ch. 127.

For qualifying tax liens certificates recorded after December 1, 2021, this Act allows for the clearing of title of tax-acquired residential property, deemed abandoned by the municipality’s code enforcement officer or other public official, within six months of the acquisition by the municipality rather than five years as required under existing law. As defined in the Act, residential property includes a structure that has one to four residential units. Evidence of abandonment includes: (1) boarded up, broken or unlocked doors; (2) accumulated rubbish, trash or debris; (3) the absence of furnishing and personal property from the residence; and (4) reports to law enforcement authorities of trespassers, vandalism or other illegal acts being committed on the property. The determination of abandonment must be certified by the designated municipal official and filed with the registry of deeds. Finally, the Act requires municipalities to inform the Maine State Housing Authority of the acquisition of certified

abandoned property for the authority's use in determining opportunities for redevelopment, programs supporting first-time home buyers and data analysis.

State Tax Legislation

148. LD 141 – An Act To Make Technical Changes to the Tax Laws. P.L. 2021, ch. 253.

Of municipal interest, this Act clarifies that: (1) an assessor's qualifying examination results are confidential and not subject to a Freedom of Access Act request; and (2) enhanced BETE reimbursement only applies to tax increment financing (TIF) exempt business equipment when the reimbursement is used to fund a TIF development program.

149. LD 1216 – An Act To Amend the State Tax Laws. P.L. 2021, ch. 181.

Of municipal interest, this Act: (1) reduces the declared ratio accuracy threshold from within 20% to within 10% of the most recent State valuation ratio used to provide State reimbursement for the homestead exemption; (2) authorizes the Property Tax Bureau to audit municipal records to ensure compliance with the laws pertaining to reimbursement for property tax exemptions, similar to the process provided for homestead exemption reimbursement; and (3) authorizes the bureau to offset payments if it is determined that a BETE exemption was improperly approved.

150. LD 1468 – An Act To Support All-terrain Vehicle Trail Improvement. P.L. 2021, ch. 446.

This Act provides that 90% of the State tax revenue generated on the rental of all-terrain vehicles (ATV) must be transferred to the ATV Recreational Management Fund and 10% transferred to the Multimodal Transportation Fund.

Vehicle Excise Tax Legislation

151. LD 1193 – An Act To Exempt Certain Disabled Veterans from the Motor Vehicle Excise Tax. P.L. 2021, ch. 240.

This Act extends the motor vehicle excise tax exemption to veterans who are granted free registration to include all veterans who are disabled by injury or disease incurred or aggravated during active military service in the line of duty and are receiving a pension or compensation from the federal government for total service-connected disability.

SUMMARY OF RECENT COURT CASES OF IMPORTANCE TO MUNICIPALITIES

The following case summaries are listed below by subject matter in the following order: administrative decisions (with citations such as Me. W.C.B.), Maine Supreme Judicial Court cases (with citations: ___ ME ___), First Circuit Court of Appeals cases (with citations: ___ F.3d ___) and U.S. Supreme Court cases (with citations: ___ S.Ct. ___ or ___ U.S. ___).

Maine cases can be found at: <https://www.courts.maine.gov/courts/sjc/opinions.html>)

First Circuit Court of Appeals cases can be found at: <http://www.ca1.uscourts.gov/opinions>

U.S. Supreme Court cases can be found at: <https://www.supremecourt.gov/opinions/slipopinion/20>

Administrative Procedure

NextEra Energy Resources, LLC v. Maine Public Utilities Commission, 2020 ME 34

- Opponents of an electric transmission project dubbed the “New England Clean Energy Connect,” a/k/a the “CMP Corridor” challenged the project’s approval by the Maine Public Utilities Commission. The Law Court upheld the approval, finding that the PUC properly found that the NECEC met the applicable regulatory standards, and that those findings were based upon sufficient evidence in the record.

Civil Procedure

Blanchard v. Town of Bar Harbor, 2019 ME 168

- Opponents of a potential ferry terminal in Bar Harbor challenged an amendment to the Town’s zoning ordinance, which allowed a number of specific accessory uses in close proximity to the water. The Law Court found that because the ferry terminal had not been built, let alone contemplated, that the opponents lacked standing to bring the lawsuit.

Town of Gorham v. Duchaine, 2020 ME 7

- The Town and Duchaine agreed to a consent judgment in a land use enforcement matter. Following the land owner’s failure to comply, the Town filed a motion to enforce that consent judgment, along with an affidavit from the Town’s code enforcement officer. Duchaine’s attorney filed an opposition, but without any supporting evidence. The District Court granted the Town’s motion to enforce without a hearing. The Law Court vacated the District Court’s order, finding that a hearing should have been held in order to receive competent evidence, and without such evidence, the order was improper.

Tomasino v. Town of Casco, 2020 ME 96

- This case reiterates the point that a municipal administrative proceeding is not the correct venue for private parties to litigate the scope of private property rights. Here, property owners sought a permit from the Code Enforcement Officer, to cut down three trees that were located within a right-of-way the property owners held over land of their neighbor. The right-of-way grant did not give specific permission to cut trees. The Code Enforcement Officer granted the permit and the neighbor appealed the permit to the ZBA, which

overturned the decision of the CEO, finding that the property owners had not demonstrated sufficient right, title, or interest to cut down the trees. The ZBA, and eventually the Law Court, agreed.

Rosenthal v. Town of Otisfield, No. AP-20-02 (Me. Sup. Ct. Apr. 12, 2021)

- Here, a building permit was issued by the code enforcement officer. Nearly two months after the permit was issued, an aggrieved neighbor appealed the permit's issuance to the board of appeals, which dismissed the appeal as untimely. On appeal to the Superior Court, the neighbor asked for a trial of facts, in order to substantiate his claim that the "good cause exception" applied. The Superior Court denied the neighbor's request, finding that the trial of facts allowed by Rule 80B of the Maine Rules of Civil Procedure is meant to supplement, rather than stand in for, the required administrative record.

Elections/Voting

Avangrid Networks, Inc. v. Secretary of State, 2020 ME 109

- Opponents of the approved "New England Clean Energy Connect" project (*see NextEra Energy Resources, LLC v. Maine Public Utilities Commission*, above) collected signatures in an effort to force a referendum on whether the project should be overturned. The Law Court deemed this to be inappropriate because the project was approved through a regulatory process and citizen initiatives could only be used to exercise "legislative" powers.

Jones v. Secretary of State, 2020 ME 111; 2020 ME 113; 2020 ME 117

- This trinity of cases involve challenges of Maine's ranked choice voting system ("RCV"). The holdings in these cases concluded, among other things, that it is not unconstitutional for the State of Maine to require that circulators of petitions be registered to vote in the municipality in which the petition is being circulated.

Caiazzo v. Secretary of State, 2021 ME 42

- Opponents of Central Maine Power's "Clean Energy Connect" corridor project circulated a petition to place a referendum question on the 2021 ballot. The question, which consisted of three parts, would (if passed) block construction of the project. Supporters of the project requested that the Secretary of State divide the question into three separate sub-questions that would be voted on separately. The Secretary of State rejected this request. The Law Court held that the applicable statute only required the Secretary of State to create language to be placed on the ballot – it did not require the separation of separate issues into separate questions.

First Amendment

Gray v. Dep't of Public Safety, 2021 ME 19

- Plaintiff was denied a private investigator's license by the Maine Department of Public Safety after the department found that Plaintiff had made "materially false" statements on his professional Facebook page, in violation of applicable licensing standards regarding an applicant's fitness, competence, and objectivity. In reviewing Plaintiff's claims for infringement of his First Amendment rights, the Law Court determined that intermediate scrutiny applied, as DPS' professional regulations incidentally burdened Plaintiff's speech.

In applying this standard, however, the Law Court found that the DPS regulations in question were constitutionally sound, as they sought to ensure that the private investigators it licenses were capable of accurately reporting facts in a manner that such a license requires.

Casey v. Town of Yarmouth, No. 2:19-CV-00392-GZS (D. Me. Jan. 21, 2021)

- A teacher employed by the Yarmouth School Department (and four others) challenged a town charter amendment that prohibited a municipal employee from holding a seat on the town council. The U.S. District Court held that this charter amendment did not violate the teacher's First Amendment rights, as it constituted a reasonable qualification for a municipal office holder that protected the town's interests in preventing conflicts of interest and maintaining trust in municipal government.

Signs for Jesus v. Town of Pembroke, 977 F.3d 93 (1st Cir. 2020)

- The Town of Pembroke, New Hampshire enacted an amendment to its zoning ordinance that banned electronic signs except those displaying in all zoning districts except its commercial district. A church applied for a sign permit to erect an electronic sign outside of the commercial district. When that application was denied, the church brought suit, alleging violations of the First Amendment, among other laws. Ultimately, the United States District Court and the First Circuit Court of Appeals found in favor of the Town. Analyzing these zoning ordinance provisions under the framework established by the United States Supreme Court in *Reed v. Town of Gilbert*, both courts determined that the prohibition of electronic signs in most zoning districts was content-neutral, and was sufficiently related to the government's interest in promoting public safety. Therefore, these restrictions did not violate the First Amendment.

Home Rule & Charters

Fair Elections Portland, Inc. v. City of Portland, 2021 ME 32

- This case involved a proposal to create a municipally-funded clean elections program through an amendment to the City's charter. Following review, the City Council determined that the proposed change constituted a "revision" requiring voter approval of a charter commission. FEP brought suit. In its holding, the Law Court made three key holdings: (1) that in a charter municipality, the municipal officers serve a gatekeeping function in determining whether proposed changes to a charter constitute an "amendment," which can simply be adopted by voters, or a "revision," which requires a charter commission to propose changes to voters; (2) that the key distinction between the two is whether the change represents a "profound and fundamental alteration in the essential character or core operations of municipal government;" and (3) when determining the nature of a proposed change to the charter, the municipal officers are making a quasi-judicial decision, requiring them to make clear findings of fact as to the quality of the change, and conclusions of law sufficient to allow a reviewing court to perform a proper analysis.

Portland Regional Chamber of Commerce v. City of Portland, 2021 ME 34

- The Portland Regional Chamber of Commerce challenged a popularly-enacted ordinance that increased the City's minimum wage over time and instituted mandatory "hazard pay" during declared states of civil emergency. The Chamber argued that the ordinance exceeded

the City's home rule authority, and by extension, the citizens' legislative power to enact ordinances at the ballot box. The Law Court disagreed, finding that the minimum wage is not a topic in which the Legislature has "occupied the field" of regulation, and that despite repercussions outside of Portland, the topic of the minimum wage fell into the category of "local and municipal" matters that are within the scope of home rule authority.

Portland Pipe Line Corporation v. City of South Portland, 2020 ME 125

- This decision is the one in a series of court decisions in the 6 year-long litigation regarding the City of South Portland's "Clear Skies Ordinance." The United States Court of Appeals for the First Circuit certified three questions to the Maine Law Court relating to whether the local ordinance was preempted by a State statute, the Maine Coastal Conveyance Act. The Law Court answered "no", finding that the Maine Legislature did not intend for the Coastal Conveyance Act to "occupy the field" of regulation, and reaffirming that the default rule in Maine is for municipalities to possess (and be able to use) strong home rule authority to enact ordinances. Following this decision, the parties agreed to a stipulation of dismissal that both affirmed the validity of the ordinance and finally concluded the litigation in the City of South Portland's favor.

Land Use/Zoning

Grant v. Town of Belgrade, 2019 ME 160

- Grant applied to the Belgrade Planning Board for permits to open a seasonal dock and boat rental business. The Law Court upheld denials of the permits, holding that even though Grant had a permitted home occupation, Grant's application did call for a change of the property's use to from residential to commercial, which was not allowed by the Town's ordinances.

Friends of Lamoine v. Town of Lamoine, 2020 ME 70

- The Friends of Lamoine appealed the issuance of a site plan approval to Harold MacQuinn, Inc., which allowed the expansion of an existing gravel extraction operation. On appeal, the Law Court upheld the Planning Board's original denial, finding that it was supported by substantial evidence within the administrative record and was consistent with the Town's ordinances. Furthermore, the Law Court clarified the time within which an aggrieved party must appeal a decision pursuant to Rule 80B. Here, although a decision was reached by the ZBA, the Court held that because the ZBA remanded the matter to the Planning Board for further findings, the applicable appeal period began after the *Planning Board* (not the ZBA) reached a final decision.

Raposa v. Town of York, 2020 ME 72

- Abutting neighbors appealed the CEO's determination that the operation of a lawn care business next door did not constitute an intensification of a non-conforming use. The ZBA granted the abutters' appeal; however, the findings of fact later adopted by the ZBA reached the opposite conclusion. The Law Court remanded the matter to the ZBA to resolve the issue.

Hill v. Town of Wells, 2021 ME 38

- This case involved a setback variance sought by a waterfront property owner. The property owner claimed that the setback was necessary due to the large amount of wetlands present on the lot, which greatly reduced any buildable envelope. The Wells Zoning Board of Appeals denied the variance request, finding that the construction of a single-family home would not conform to the “essential characteristics of the neighborhood,” as is required by statute. The Law Court agreed – holding that despite the presence of other nonconforming residences in the neighborhood, the construction of a home on the lot in question would negatively affect the natural environment that predominated the neighborhood. So, this case stands for the proposition then when considering a variance request, a zoning board of appeals may consider the entire nature of the geographic area, not simply the existing developed uses and property values.

Maine Tort Claims Act

McDonald v. City of Portland, 2020 ME 119

- McDonald slipped and fell in the plaza adjacent to the front door of the Portland Police Station. Despite the City’s argument to the contrary, the Law Court determined that this area was an “appurtenance” to a public building, and therefore fell under an exception to immunity in the Maine Tort Claims Act.

Property Taxation

Bolton v. Town of Scarborough, 2019 ME 172

- Property owners continued their challenge of Scarborough’s “abutting lot program,” which provided a reduced property valuation for certain parcels of land. The Law Court previously found the program to be unconstitutional. As a result, the property owners argued that they were entitled abatements representing the same percentage reduction in value as the participants in the abutting lot program. The Board of Assessment Review disagreed, holding instead that the property owners were entitled to an abatement equal to the difference between what was paid in taxes and what would have been paid had the abutting lot program not existed. The Law Court upheld this remedy and found against the property owners.

Roque Island Gardner Homestead Corporation v. Town of Jonesport, 2021 ME 21

- The owner of a homestead off the coast of Jonesport challenged the town’s valuation of its property in two separate parts. First, the taxpayer challenged the Town’s use of a 200% “economic obsolescence factor” that effectively doubled the assessed value of the taxpayers’ buildings. Second, the taxpayer challenged the State Board of Property Tax Review’s denial of the taxpayer’s appeal for overvaluation on its farmland. The Law Court agreed with the taxpayer on both counts – finding that the Town’s Board of Appeals did not base its earlier denial on any competent evidence in the record, and also finding that the State Board of

Property Tax Review had failed to account for the taxpayer's "current use" of the relevant property for farming.

City of Old Town v. Expera Old Town, LLC, 2021 ME 23

- The owner of a wood and paper mill challenged the municipality's valuation of the property over multiple tax years. The property owner's primary argument was that based on the sales approach, its purchase price of the property at a bankruptcy auction should be considered an "arm's-length transaction," sufficient to set the fair market value. The Law Court rejected this argument, noting that a sale used to determine just value must be an arm's-length transaction and a bona fide sale under normal market conditions.

Tacoma Police Dep't v. Zhen, No. 54510-1-II, 2021 Wash. App. LEXIS 424 (Mar. 2, 2021)

- The underlying facts in this case deal with asset forfeiture in the context of a drug arrest; however, the law is directly applicable to municipalities' procedures for notifying property owners of delinquent taxes. Here, the Tacoma, Washington Police Department sent notice of potential asset forfeiture by both first class and certified mail. Both were returned as undeliverable. The Police Department did nothing else, but instead proceeded with the forfeiture. The owner of the assets argued that this amounted to violation of her right to procedural due process. The Washington Court of Appeals agreed. Citing the United States Supreme Court's opinion in *Jones v. Flowers*, 547 U.S. 220 (2006), this case should remind municipalities that when sending statutorily required notices to delinquent taxpayers, due process is only protected after the municipality takes "reasonable steps to attempt to provide notice to the property owner before selling his property, if it is practicable to do so."

Real Estate

Almeder v. Town of Kennebunkport, 2019 ME 151

- This decision concluded the long-running dispute of ownership between private homeowners and the Town of Kennebunkport regarding a piece of Goose Rocks Beach. Following a lengthy bench trial and nearly 100 pages of opinion, the Superior Court found that the "dry sand" of Goose Rocks Beach was owned by the Town. The Law Court found no fault with the Superior Court's factual findings and affirmed that decision.

Pilot Point, LLC v. Town of Cape Elizabeth, 2020 ME 100

- This case involved an unaccepted paper street that runs between private property and the Atlantic Ocean, has never been developed, and over time, has been effectively incorporated into the backyards of the adjoining properties. In more recent times, the Town of Cape Elizabeth had begun discussing accepting the paper street and using it as a public walking trail. The adjoining property owners sought a declaration from the Superior Court that the Town's opportunity to accept the paper street had lapsed and that if it had not lapsed, that the Town could not use the paper street as a public walking path. The Superior Court and the Law Court concluded that the Town's ability to accept Surf Side Avenue remained viable until 2037, but until something more was done, any decision regarding the scope of that right, *i.e.*, for anything other than a paved street for vehicle access, remained unripe for review.

Takings

Knick v. Township of Scott, 139 S. Ct. 2162 (2019)

- A municipality enacted an ordinance requiring that all cemeteries be maintained in a manner making them accessible to the general public. A landowner sued, alleging that the ordinance effected a taking of her property without just compensation. She sued the municipality in state court due to the Supreme Court's previous requirement that all takings cases be initiated in state court before being brought in federal court (*Williamson Cty. Reg. Planning Comm'n v. Hamilton Bank of Johnson City*). Here, the Supreme Court overruled *Williamson County*, finding that a plaintiff may bring an inverse condemnation claim to federal court without first "exhausting their remedies" in state court.

Cedar Point Nursery v. Hassid, 141 S. Ct. 2063 (2021)

- California law required agricultural employers to allow union organizers to enter their property and meet with employees at a designated period during the year. Following appeal, the United States Supreme Court determined that this regulation constituted a *per se* taking, as it allowed a physical invasion of private property by union organizers, in a manner allowed by a governmental regulation. These takings require just compensation pursuant to the Fifth Amendment to the United States Constitution, consistent with the Supreme Court's earlier holding in *Loretto v. Teleprompter Manhattan CATV Corp.*

PennEast Pipeline Co v. New Jersey

- In this case, the United States Supreme Court held that the Natural Gas Act permitted private companies to condemn land owned by any of the 50 states for purposes of constructing a natural gas pipeline. This was the case notwithstanding the state of New Jersey's argument that Eleventh Amendment sovereign immunity protected them.