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**Final Report of the Mandate Working Group**

**Prepared for the  
Joint Standing Committee on  
Appropriations and Financial Affairs**

**Pursuant to 2013 Public Law, Chapter 368, Part WW**

**February 4, 2014**

**H. Sawin Millett, Jr.  
Chair**

**Final Report  
of the  
Mandate Working Group  
(P.L. 2013, C. 368, p. WW)  
February 4, 2014**

Public Law 2013, Chapter 368, Part WW (**Attachment 1**) directed the Commissioner of Administrative and Financial Services to convene a working group (“Mandate Working Group”) to review mandates imposed by the State on municipalities. It charged the Mandate Working Group with identifying the financial impact of those mandates on municipal budgets, those mandates that can be mitigated or eliminated and the cost to the State of mitigating or eliminating the identified mandates.

The Mandate Working Group (**Attachment 2**) met on four occasions: November 4, November 14, November 22 and December 2. A summary of recommendations follows below. Special recognition goes to Geoff Herman of the Maine Municipal Association for his exemplary assistance in organizing, staffing and summarizing the recommendations of the Working Group.

To facilitate its review of state mandates imposed on Maine’s towns and cities, the Working Group used a mandate inventory prepared by the Maine Municipal Association (MMA). The inventory identified the mandates according to eight categories.

The Working Group’s recommendations include detailed proposals to repeal or amend specific state mandates as well as broader narratives suggesting how the state and local governments could work together to address or ameliorate the negative impacts of state mandates. All recommendations are organized according to the eight categories in the MMA inventory except for two broad recommendations that cross categorical boundaries.

- Periodic and formal intergovernmental conversations. The Working Group identified a variety of mandate-related concerns that could be resolved or partially resolved if there was a formal opportunity to have conversations between a group of municipal officials, the appropriate policy-level state agency personnel, and the Commissioner of the Department of Administrative and Financial Services. Specific examples of those conversations include:
  - Department of Administrative and Financial Services
    - Assessing mandates, “appraisal report” standards, assessor training
  - Department of Agriculture, Conservation and Forestry
    - Comprehensive plan “consistency” standards
  - Department of Environmental Protection
    - Perceived subjective application of environmental standards by DEP personnel in the field
    - Recycling report requirements
    - Circumstances of state-imposed Site Law standards inhibiting proposed development

- Professional Regulation
    - The discriminatory application of boiler inspection fees
  - Department of Transportation
    - The changing cost-share obligations to repair state aid roads
  - Public Utilities Commission
    - “Dig Safe” program
- Regionalized delivery of local services. This discussion (**Attachment 3**) will review the intersection between state mandates and efforts to regionalize the delivery of local government services. The recommendation is to establish a targeted pilot program, modeled after the now-repealed local government efficiency fund, that provides financial and administrative incentives to implement one or more regional service delivery proposals submitted by municipalities and awarded according to a competitive process.

## **Administration**

- Assessing requirements for “sudden and severe” and BETE reimbursement eligibility. The “Part O” section of the state budget adopted in 2013 establishes requirements on municipalities to prepare appraisal reports for any single properties that are valued at 2% or more of the overall municipal valuation. The preparation of those appraisal reports, which should be in place by the summer of 2014, requires considerable expense for which the municipalities have not even had an opportunity to budget. The Working Group recommendation is to request the municipal concerns to be reviewed and addressed by an ad hoc BETE working group that has been established to review the concerns of the business community with the way Part O impacts large industrial taxpayers. Until the BETE working group’s efforts are finalized and the municipal concerns have been addressed, the Working Group recommends the implementation of the Part O requirements be put on hold.
- Tree Growth notification. The requirement for municipalities to notify landowners of their failure to file certification of compliance with a forest management plan every 10 years includes a highly redundant notification process, which should be redesigned as a single notification process.
- Right to Know public records requests. 1 MRSA, section 408-A, subsection 8, governs the charges municipalities can apply for records requests under the Freedom of Access Act. The statute should be amended to allow governmental entities to recover their actual and direct costs of assembling the requested records for large-scale records requests that require many hours of staff time to administer.
- Annual reports. 30-A MRSA, section 2801, which governs the publication of the annual municipal report, should be amended to allow the municipality’s legislative body to authorize the annual report to be “published” electronically on the municipality’s publicly accessible website rather than in hard copy.

- Local sealer of weights and measures. The law requiring each municipality to appoint a local sealer of weights and measures (10 MRSA, chapter 501, subchapter 4) should be repealed, allowing the State Sealer to appoint local or regional sealers as the State Sealer believes necessary.
- Inspector of boats. The law governing the “inspector of boats and lighters” should be repealed as archaic.
- Board of Appeals and Board of Assessment Review. The laws governing the appointment of a local Board of Appeals (BOA) and Board of Assessment Review (BAR) should be amended to provide that state statute on the subject should require only that these two boards consist of at least 3 members and leave other details regarding appointment up to local ordinance.
- Motor vehicle fine revenue. Municipal law enforcement is responsible for generating a significant amount of revenue for the state through the fines people pay for motor vehicle infractions. Very little of that revenue is used to support the local government enforcement effort. The Working Group recommendation is to amend the statute governing the fees paid to compensate for the time police officers spend in court, increasing the fees from \$50 per day to actual costs, not to exceed a reasonable maximum hourly rate.

## **Education**

- Education costs. The Legislature established a separate working group process focused on educational-related mandates, and this Working Group deferred to that effort with respect to education mandates. Attachment 3, however, also reviews the municipal concern about how school-related costs, driven to some degree by unfunded state mandates, have an overall “crowd-out” effect with respect to the municipal side of the overall “municipal budget”, leading to shortchanging the maintenance of public infrastructure and incurring negative, long-term financial consequences.

## **Elections**

- The Working Group made no specific recommendations in this category except to observe that the municipal financing and administration of all state, regional and local elections represents a type of service municipalities provide to the State of Maine, generally, that warrants legislative support for the municipal revenue sharing system.

## **Environment**

- Environmental mandates. Environmental mandates are many in number, complicated in their implementation, and often rooted somehow in federal law. The Working Group made three broad recommendations to cover the entire category of environmental mandates.
  - Formal conversations with DEP. The process of implementing or imposing environmental mandates were most often discussed at the Working Group level

as benefitting from formal conversations with policy level state agency personnel from both DEP and DAFS.

- Fees. The permitting/licensing fees imposed by the DEP should be waived for municipal governments on the principle that they are effectively acting as agents of the state, particularly for all programs and activities that are mandated by federal or state law or directly associated with economic development.
- Federal standards. All state law and regulation adopted to comply with federal environmental mandates should be written to meet but not exceed federal minimum requirements.

## **Health, Welfare and Public Safety**

- Firefighter cancer presumption. Although indisputably a mandate from the municipal perspective, the law amending the workers' compensation law to require municipalities to prove that firefighters who contract cancer did not contract the disease because of their firefighting experience was enacted without the required mandate preamble and is therefore not recognized as a mandate by the State. The Working Group recommendation is that the Legislature review the cancer presumption statute, recognize the significant financial impacts the municipalities are incurring and will be incurring in the future, recognize the law as a state mandate, clarify the law's prospective application and review more carefully the scientific record regarding the relationship between firefighting and some of the cancers identified in 39-A MRSA, section 329-B (1) (A).
- Quality assurance protocols in PSAPs. Without identifying the law as a state mandate, the Legislature requires certain protocols to be followed by Public Safety Answering Points with respect to emergency medical communications. The protocols require additional staff and training hours and the law establishing the requirement is another unrecognized state mandate. The Working Group recommendation is that the costs associated with these training requirements be covered by the revenue generated by the surcharge established on all landline and cell phone telephone accounts.
- Animal welfare. Although there were a number of issues raised about the animal welfare statutes, the recommendation is to clarify 7 MRSA, section 3950 to expressly allow municipalities to charge dog licensing fees that are higher than established in statute to help cover the costs of animal control.
- Boiler inspection certification. State law requires municipalities and schools to provide fees to the State with respect to normal building heating boilers that boiler owners for no other places of public accommodation are required to provide. The Working Group recommendation is to either strike the discriminatory application of the law completely, or strike the requirement when the local government has caused the hot water boilers to be annually inspected through their insurance programs.

## **Licensing and Permitting**

The Working Group recommendation is to repeal all current statutes requiring municipalities to license an array of recreational business activities and replace with a single statute that identifies the various activities and allows municipalities to adopt ordinances to license under their home rule authority, including the establishment of appropriate licensing fees.

- Bowling alleys, shooting galleries, pool, and bagatelle and billiard rooms (8 MRSA §§ 1-2)
- Pinball machine operator licensing (8 MRSA § 441)
- Public exhibitions licensing (8 MRSA §§ 501-502)
- Roller skating rink licensing (8 MRSA § 601, et. Seq.)
- Closing-out sale licensing (30-A MRSA § 3781, et. Seq.)
- Pawnbroker licensing (30-A MRSA §3961)

## **Planning and Zoning**

- Comprehensive plan “consistency”. Municipalities are experiencing frustration with the process of getting their comprehensive plans certified as “consistent” with the state’s Growth Management Act. The Working Group recommendation is that the process of obtaining a finding of “consistency” for a municipal comprehensive plan should be placed high on the list of issues to be taken up by the State-Local Intergovernmental Working Group.

## **Public Works and Transportation**

- Veterans’ graves. A very significant unfunded state mandate requiring expanded management and repair of veterans’ gravesites and gravestones was enacted in 2013. The recommendation is to rewrite the mandate to require the municipalities, in collaboration with veterans’ organizations, cemetery associations, civic groups and other interested parties, to achieve certain standards with respect to cemetery maintenance, gravestone management and repair. It is the Working Group’s understanding that a bill to address the issue of this unfunded state mandate is being advanced in 2014 (LR 2580, sponsored by Senator Johnson of Lincoln County.)
- Excavation notice. The “Dig Safe” excavation notice system is not working efficiently for a number of reasons. The Working Group recommendation is to identify in the final report the various issues that were raised regarding the implementation of the Dig Safe system, and include Dig Safe on the list of issues to be addressed through the State-Local Intergovernmental Working Group process.

Draft Legislation, “An Act to Relieve the Municipal Burden of Certain Unfunded State Mandates”, (**Attachment 4**) is included for your review and consideration.

**PART WW**

**Sec. WW-1. Working group.** The Commissioner of Administrative and Financial Services or the commissioner's designee shall convene a working group to review mandates imposed by the State on municipalities and invite interested parties including a statewide association representing municipalities to participate in the review. The working group shall identify the financial impact of state mandates on municipal budgets, those mandates that can be mitigated or eliminated and the cost to the State of mitigating or eliminating the identified mandates.

**Sec. WW-2. Report recommendations.** No later than December 1, 2013, the working group shall report to the Joint Standing Committee on Appropriations and Financial Affairs the working group's findings and recommendations pursuant to section 1, including priorities for mandates that can be mitigated or eliminated, and any necessary implementing legislation. The joint standing committee is authorized to report out a bill related to the subject matter of the report to the Second Regular Session of the 126th Legislature following receipt of the report.



**Mandate Working Group Membership**

H. Sawin Millett, Jr.	Commissioner/Chair	Dept. of Administrative & Financial Services
Geoff Herman	Director	Maine Municipal Association
Michael Brennan, Ph.D.	Manager	Town of Bucksport
John Bubier	Manager	City of Biddeford
Paul Castonguay	Assessor	City of Waterville
Clint Deschene	Manager	City of Auburn
John Madigan	Manager	Town of Mexico
Roger Raymond	Manager	Town of Hermon

### **Consolidation, collaboration and the regional delivery of local government services**

As the Working Group carried out the task it was given, certain intersections were observed between the subject of unfunded state mandates and the efforts to find efficiencies through the regional delivery of local governmental services.

The first intersection was the observation that state mandates often impact municipalities differently according to size. For example, relatively densely developed towns and cities over a population threshold are given obligations as “urban compact” municipalities to maintain certain collector state roads on a year-round basis. As a consequence, any two municipalities considering merging together, where one is an “urban compact” municipality and the other is not, would immediately see the disadvantage of doing so if the smaller community contains several miles of state aid roads. In this case, the established mandates are a disincentive to the most direct form of municipal consolidation.

A second mandate-consolidation intersection came to light during the review of one of the most significant education-related mandates of the last decade, the school reorganization law of 2007. School officials, municipal officials and hundreds of volunteers across the state were obligated to invest thousands of hours, collectively, because of the reorganization directives mandated by that law. The school reorganization effort was a rushed, top-down, penalty driven consolidation system which has been unraveling ever since its enactment. Its claims of savings and greater efficiency were theoretical and, for far too many, unrealized. A less attractive example of the interaction between state mandates and local government consolidation could hardly be imagined.

As a result of these observations and the discussions they generated, the Working Group developed a recommendation. The recommendation is based on the municipal belief that state-level efforts to create or inspire increased municipal collaboration or consolidation should recognize a few basic points.

- “Consolidation” is a term that implies the merger of separate, independent units of governance, as was the goal of the school reorganization law. Consolidation is one way to implement a more regionalized governance structure, but certainly not the only way.
- There are thousands of systems in place today at the municipal level that utilize collaborative approaches in very effective ways. Although it often goes unnoticed, municipal officials are constantly exploring the potential of collaborative service delivery systems and implementing creative approaches. Some of those approaches involve working more or less informally with neighboring towns, through multi-municipal interlocal agreements, or contracting with county or state government. In a wide variety of ways, and perhaps more than any other level of government, municipalities regularly take advantage of efficiencies that can be obtained by contracting with the private sector.

Road work, solid waste transportation and management, and assessing are examples of local government service delivery that are widely contracted out to private sector vendors.

- Real cost savings need to be demonstrated prior to consolidation in order to obtain voter support, and then delivered upon implementation.
- A gentle approach, focusing on the goals to be reached and providing assistance to reach those goals, is much more effective than any forced, top-down consolidation mandate.
- The Local Government Efficiency Fund (LGEF), adopted by the voters in 2004 and held essentially inactive for five years before its repeal, should have been allowed to operate as designed. Designed by municipal officials, the LGEF represented an appropriate way to stimulate the municipal exploration of regionalized delivery system. The municipal revenue sharing program, upon which the LGEF relied, has subsequently been reduced to levels that no longer support the capitalization of such a program.

**Recommendation.** The Working Group's recommendation is for the Legislature to establish a pilot program designed to give financial and administrative support toward the implementation of creative regional governmental services delivery systems and evaluate the effectiveness of an incentive-based approach. The proposals evaluated under the pilot program must be designed by two or more participating municipalities and awarded on a competitive basis similar to the system established under the Local Government Efficiency Fund. Proposals that could easily be replicated in other regions of the state would be given strong consideration, and collaborations or consolidations that require or would benefit from statutory adjustments would be given due legislative consideration. The development of natural gas distribution districts is an example of inter-municipal collaboration that might be stimulated by such an approach.

Draft Legislation

An Act to Relieve the Municipal Burden of Certain Unfunded State Mandates

Part A

Sec. 1. 1 MRSA, §408-A, sub-§8, as enacted by PL 2011, c. 662, §5, is amended to read:

**8. Payment of costs.** Except as otherwise specifically provided by law or court order, an agency or official having custody of a public record may charge fees for public records as follows.

A. The agency or official may charge a reasonable fee to cover the cost of copying.

B. The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record of not more than \$15 per hour after the first hour and up to the 20<sup>th</sup> hour of staff time per request. For any request that involves more than 20 hours of staff time to search for, retrieve and compile the requested public record, the agency or official may charge a fee to cover the actual costs. Compiling the public record includes reviewing and redacting confidential information.

C. The agency or official may charge for the actual cost to convert a public record into a form susceptible of visual or aural comprehension or into a usable format.

D. An agency or official may not charge for inspection unless the public record cannot be inspected without being compiled or converted, in which case paragraph B or C applies.

E. The agency or official may charge for the actual mailing costs to mail a copy of a record.

Sec. 2 . 4 MRSA, §173, sub-§4-A, as amended by PL [1999, c. 731, Pt. CCCC, §1, is amended to read:

**4-A. Law enforcement officer services, reimbursement and compensation.** The court shall reimburse or compensate municipalities and counties for law enforcement officer services as follows.

A. The court shall reimburse the municipality or county that employs the law enforcement officer ~~a flat fee of \$50~~ the officer's actual salary costs, calculated at an hourly rate for each day or part of a day that a law enforcement officer is physically present for a scheduled trial in District Court, whether or not the officer is called upon to give testimony.

B. The court shall pay a municipality or county ~~a flat fee of \$50~~ the law enforcement officer's actual salary costs, calculated at an hourly rate, for each day or part of a day that a municipal or county law enforcement officer, designated by the municipality or county as its court officer, is physically present in a District Court in order to adequately handle that municipality's or county's case load.

The court officer required to be present at an arraignment may be an officer other than the arresting officer if the municipality or county has designated the officer to handle the arraignment case load of that municipality or county. In addition, one or more municipalities may designate either a municipal law enforcement officer or a county law enforcement officer to represent the municipalities at arraignments.

C. The sheriffs of the several counties shall designate and furnish deputy sheriffs to serve as bailiffs in each division of the District Court within their counties if requested by the Chief Judge. A deputy sheriff designated as bailiff must be approved by the Chief Judge and may not serve as a court officer for any law enforcement agency. Compensation for reasonable and necessary expenses, as agreed to by the parties, must be paid by the District Court.

In a municipality where a police officer has been furnished to serve as a bailiff, the Chief Judge may continue to authorize the use of a police officer as a bailiff and the District Court shall compensate the municipality. A person appointed to serve as bailiff may not serve as court officer for a municipal police department as provided in this subsection.

**Sec. 3. 7 MRSA, §3950**, as amended by PL 2005, c. 138, §1, is amended to read:

**§3950. Local regulations**

Each municipality is empowered to adopt or retain more stringent ordinances, laws or regulations dealing with the subject matter of this chapter, including the establishment of fees necessary and appropriate to finance the cost of animal control services, except that municipalities may not adopt breed-specific ordinances, laws or regulations. Any less restrictive municipal ordinances, laws or regulations are invalid and of no force and effect.

**1. Certain agricultural working dogs exempt from barking dog ordinances.** A municipal ordinance, law or regulation that prohibits or limits barking dogs does not apply to dogs engaged in herding livestock or to agricultural guard dogs engaged in protecting livestock or warning the owners of danger to the livestock. For the purposes of this subsection, the term "livestock" has the same meaning as in section 3907, subsection 18-A.

**Sec. 4. 10 MRSA, c. 501, subchapter 4**, is repealed.

**Sec. 5 . 16 MRSA, §252**, as amended by PL 1975, c. 408, §35, is amended to read:

**§252. Fees of police officer or constable**

No police officer or constable paid a salary or paid upon a per diem basis by a municipality shall receive any fee as a complainant or witness, or for making an arrest or for attendance at court, while on duty and being compensated therefor, but shall be reimbursed by such municipality for ~~his~~ the officer's or constable's actual costs of arrest and actual expenses of travel and attendance. Whenever any fines or penalties are imposed by any court in any proceeding in which such a police officer or constable is a complainant or a witness, said court ~~may~~ must tax costs for such complainant or witness in the usual manner to be paid by the Treasurer of State to the municipality employing such police officer or constable; such costs shall not exceed ~~his~~ the officer's or constable's actual expenses, paid by the municipality for ~~his~~ travel to and attendance at the court. Notwithstanding any other provisions of law, all law enforcement officers appearing at the order of a prosecuting official before the Superior Court or grand jury, whether or not called upon to give testimony, at times other than their regular working hours shall be compensated on an hourly basis equal to their present rate of employment to be paid by the respective county treasurer.

In the event that any police officer or constable is compensated by the municipality for attendance at court on an hourly basis equal to his present rate of employment, then he shall not be compensated by the county as provided in this section, but the county shall compensate the municipality for that amount paid to the police officer or constable for his attendance at court.

**Sec. 6. 30-A MRSA, §2526, sub§-6**, as amended by PL 2003, c. 510, Pt. A, §26, is amended to read:

**6. Board of assessment review.** The following provisions apply to a board of assessment review.

A. Any municipality may adopt a board of assessment review at a meeting of its legislative body held at least 90 days before the annual meeting.

B. Unless otherwise established by charter or ordinance, the ~~The~~ board of assessment review consists of 3 members ~~and 2 alternates~~ appointed by the ~~selectmen~~ municipal officers. The municipality, when adopting such a board, may fix the compensation of the members. ~~Initially, one member must be appointed for one year, one member for 2 years and one member for 3 years, and one of the alternates must be appointed for one year and one alternate for 2 years. Thereafter, the term of each new member or alternate is 3 years.~~

C. Any town adopting a board of assessment review may discontinue the board by vote in the same manner and under the same conditions as in adopting the board.

D. ~~Municipalities may provide by ordinance for a board of assessment review consisting of 5 or 7 members and up to 3 alternates. The terms of office of members and alternates may not exceed 5 years and initial appointments must be such that the terms of office of no more than 2 members or alternates will expire in any single year.~~

E. Any town, by ordinance, may designate a board of appeals appointed under section 2691 as the board of assessment review.

F. A board of assessment review shall annually elect from its membership a chairman and a secretary.

G. The procedure of a board of assessment review is governed by section 2691, subsection 3.

H. This subsection does not apply to any municipality which is incorporated into a primary assessing area.

**Sec. 7. 25 MRSA, §2927, sub-§ 3-A**, as enacted by PL 2005, c. 303, §2, is amended to read:

**3-A. Payment of emergency medical dispatch training costs.** To assist public safety answering points in meeting the requirements of Title 32, section 85-A, the bureau shall provide free training courses for emergency medical dispatchers, as defined in Title 32, section 85-A, subsection 1, paragraph D, reimburse public safety answering points for reasonable costs associated with the implementation of mandatory quality assurance systems pursuant to section 2926, subsection 1-A, or reimburse public safety answering points for reasonable costs, as determined by the bureau, incurred for training courses approved by the bureau and attended by employees of the public safety answering point upon submission by the public safety answering point of adequate documentation of completion of the courses by the employees. The bureau shall provide each public safety answering point a sufficient number of approved Emergency Medical Dispatch Priority Reference System documents in printed or electronic format, as determined by the bureau pursuant to Title 32, section 85-A. All costs incurred by the bureau under this subsection must be paid from the E-9-1-1 fund.

**Sec. 8. 30-A MRSA, §2691, sub-§§ 1 and 2**, as amended by 1989, c. 104, Pt. C, §§8, 10, is amended to read:

### **§2691. Board of appeals**

This section governs all boards of appeals established after September 23, 1971.

**1. Establishment.** A municipality may establish a board of appeals of at least 3 members under its home rule authority. Unless provided otherwise by charter or ordinance, the municipal officers shall appoint the members of the board and determine their compensation.

**2. Organization.** A board of appeals shall be organized as follows.

~~A. The board shall consist of 5 or 7 members, serving staggered terms of at least 3 and not more than 5 years, except that municipalities with a population of less than 1,000 residents may form a board consisting of at least 3 members. The board shall elect annually a chairman and secretary from its membership.~~

B. Neither a municipal officer nor a spouse of a municipal officer may be a member or associate member of the board.

C. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue shall be decided by a majority vote of the members, excluding the member who is being challenged.

D. The municipal officers may dismiss a member of the board for cause before the member's term expires.

~~E. Municipalities may provide under their home rule authority for a board of appeals with associate members not to exceed 3. If there are 2 or 3 associate members, the chairman shall designate which will serve in the place of an absent member.~~

**Sec. 9. 30-A MRSA, §2801**, as amended by PL 2011, c. 298, §12, is amended to read:

### **§2801. Annual report**

The officers of each municipality shall publish annually a complete report subject to the following provisions.

**1. Record of financial transactions.** The report shall contain a record of all financial transactions of the municipality during the last municipal year. It may include an itemized list of receipts and disbursements indicating to whom and for what purpose each amount was paid.

**2. Statement of assets and liabilities; delinquent taxpayers.** The report shall contain a detailed statement of the assets and liabilities of the municipality including a list of all delinquent taxpayers and the amount due from each. It shall also contain any engineering and survey reports relating to the boundaries of the municipality and all related proceedings and actions of the municipal officers, together with any other information that the municipal officers consider to be of historical significance.

**3. Postaudit report.** The report shall contain the statement that the complete postaudit report for the last municipal year is on file at the municipal office and the following excerpts from the report:

- A. Name and address of the auditor;
- B. Auditor's comments and suggestions for improving the financial administration;
- C. Comparative balance sheet; and
- D. Statement of departmental operations.

**3-A. Names of those issued concealed handgun permits.** The names of persons issued concealed handgun permits under Title 25, chapter 252 may not be printed in the annual report.

**4. Copies for distribution.** Copies of the report must be deposited in the municipal office or a convenient place of business for distribution to the voters at least 3 days before the annual meeting or the annual business meeting.

**5. Copies open for inspection.** Copies of the report and all municipal records shall be kept in the municipal office, or in the office of the clerk, and are open to the inspection of voters during usual business hours.

**6. Penalty.** A municipal official who refuses or neglects to perform any duty required by this section commits a civil violation for which a fine of \$50 for each offense may be adjudged.

7. By a vote of its legislative body, a municipality may elect to satisfy the requirements of subsection 4 by publishing the report required by this section electronically and posting it on the municipality's publicly accessible website according to the timing requirements of that subsection.

**Sec. 10. 32 MRSA, §15102,** as amended by PL 2013, c. 70, Pt. C, §§7, 8, is amended to read:

#### **§15102. Exemptions**

**1. Boilers.** This chapter does not apply to:

- A. Boilers that are under federal control;
- B. Boilers used solely for propelling motor road vehicles;
- C. Boilers of steam fire engines brought into the State for temporary use in times of emergency to check conflagrations;
- D. Boilers used for agricultural purposes only;
- E. Steam heating boilers, hot water heating boilers and hot water supply boilers, ~~except boilers located in schoolhouses or boilers owned by municipalities,~~ constructed and installed in accordance with the rules adopted by the director; or
- F. Miniature boilers exempt pursuant to section 15103-A.

**Sec. 11. 36 MRSA, §581, sub-§ 1-A,** as amended by 2011, c. 618, §4, is amended to read:

**1-A. Notice of compliance.** No earlier than 185 days prior to a deadline established by section 574-B, if the landowner has not yet complied with the requirements of that section, the assessor must provide the landowner with written notice by certified mail informing the landowner of the statutory requirements that need to be met to comply with section 574-B and the date of the deadline for compliance or by which the parcel may be transferred to open space classification pursuant to subchapter 10. The notice must also state that if the owner fails to meet the deadline for complying with section 574-B or transferring the parcel to open space classification, a supplemental assessment of \$500 will be assessed and that continued noncompliance will lead to a subsequent supplemental assessment of \$500. If the notice is issued less than 120 days before the deadline, the owner has 120 days from the date of the notice to provide the assessor with the documentation to achieve compliance with section 574-B or transfer the parcel to open space classification, and the notice must specify the date by which the owner must comply.

If the landowner fails to provide the assessor with the documentation to achieve compliance with section 574-B or transfer the parcel to open space classification pursuant to subchapter 10 by the deadline specified in the notice, the assessor shall impose a \$500 penalty to be assessed and collected as a supplemental assessment in accordance with section 713-B. The assessor shall send notification of



the supplemental assessment by certified mail and notify the landowner that, no later than 6 months from the date of the 2nd notice, the landowner must comply with the requirements of section 574-B or transfer the parcel to open space classification pursuant to subchapter 10 and that failure to comply will result in an additional supplemental assessment of \$500 and the landowner will have an additional 6-month period in which to comply with these requirements before the withdrawal of the parcel and the assessment of substantial financial penalties against the landowner.

~~At the expiration of 6 months, if the landowner has not complied with section 574 B or transferred the parcel to open space classification under subchapter 10, the assessor shall assess an additional \$500 supplemental assessment. The assessor shall send notification of the 2nd supplemental assessment by certified mail and notify the landowner that, no later than 6 months from the date of the notice, the landowner must comply with the requirements of section 574 B or transfer the parcel to open space classification pursuant to subchapter 10 or the land will be withdrawn from the tree growth tax program.~~

If the landowner has not complied within 6 months from the date of the 2nd supplemental assessment, the assessor shall remove the parcel from taxation under this subchapter and assess a penalty for the parcel's withdrawal pursuant to subsection 3.

This subsection does not limit the assessor from issuing other notices or compliance reminders to property owners at any time in addition to the notice required by this subsection.

**Sec. 12. 38 MRSA, §123, is repealed.**

**Sec. 13. 38 MRSA, §352, sub-§2-B, is enacted to read:**

2-B. The commissioner must waive licensing and permitting fees with respect to the activity of municipal governments when the activity is required as a result of an unfunded state mandate, as defined by Article IX, section 21 of the Constitution of Maine. This section does not provide any waiver or reduction in any licensing or permitting requirement.

## **Part B**

**Sec. 1 . 8 MRSA, c. 1, is repealed.**

**Sec. 2. 8 MRSA, c. 17, is repealed.**

**Sec. 3. 8 MRSA, c. 19, is repealed.**

**Sec. 4. 30-A MRSA, §3781, as amended by PL 1989, c. 104, §§C8,10, is amended to read:**

### **§3781. License requirements**

No retail establishment located in a municipality that has adopted a licensing ordinance pursuant to this section ~~No person~~ may offer for sale a stock of goods, wares or merchandise under the designation of "closing-out sale," "going out of business sale," "discontinuance of business sale," "entire stock must go," "must sell to the bare walls" or other designation which states, directly or by implication, an intent of that person to dispose of the entire stock of goods with a view to permanently terminating further business after that disposal is complete, unless the person complies with the following requirements.

**1. Inventory license.** Before the disposal sale begins, the person must obtain a license to conduct the sale from the municipal officers of the municipality in which the sale will be conducted or other designated municipal official as provided by ordinance.

A. The person must apply to the municipal officers or designated licensing official for the license under oath. The application must contain a complete inventory of all items to be included in the sale and must be accompanied by the payment of a license fee set by ~~the municipal officers~~ ordinance. The applicant must affirm, in writing and under oath, to the municipal officers or designated licensing official that no merchandise will be included in the stock offered for sale unless the merchandise is in or at the place of business where the sale will take place when the sale opens. Any unusual purchases and additions to the stock of goods, wares or merchandise made within 60 days before the filing of an application for a license is prima facie evidence that the purchases and additions were made in contemplation of the sale.

(1) If the applicant has been in the same business for which the sale is being conducted for less than 2 years of continuous operation in the municipality, the applicant must also affirm, in writing and under oath, that none of the merchandise was purchased before the sale opened for the purpose of selling and disposing of that merchandise at the sale.

B. The license is valid for 60 days from the date of issuance, unless revoked under subsection 3. The validity of the license may be extended for 60 additional days if the licensee provides an affidavit to the municipal officers stating that all goods, wares or merchandise listed in the inventory have not been disposed of within the original 60-day period.

**2. License issued; records preserved.** The municipal officers or designated licensing official shall immediately issue the license upon compliance with this section. ~~The municipal officers municipality shall preserve all applications for licenses and other papers filed in connection with an application as a public record in their office for 5 years. They shall endorse the dates of filing and the granting or denial of the license on those papers and shall make an abstract of any other proceedings taken in connection with the application.~~

**3. Revocation; prior violations; suspension.** The municipal officers or designated licensing official shall revoke any license issued under this subchapter if the licensee ~~is convicted of violating~~ violates this section or the municipal ordinance, and ~~The municipal officers~~ may refuse to issue another license to any applicant who has been convicted of violating this section before the date of application. If any person convicted of any violation of this section appeals the decision or sentence of the trial court, that person's license shall be suspended while the appeal is pending in the appellate court.

**Sec. 5. 30-A MRSA, §3961,** as amended by PL 1989 c. 104, §§C8,10, is amended to read:

### **§3961. License**

Within municipalities that have adopted a licensing ordinance pursuant to this subchapter, the ~~The municipal officers or designated municipal official of any municipality~~ may grant licenses to persons of good moral character to be pawnbrokers in the municipality for one year, unless sooner revoked by the municipal officers or designated licensing official for violation of law or ordinance. Whoever carries on such a business without a license commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

**Sec. 6, 30-A MRSA, §3981,** is enacted to read:

**§3981. Licensing recreational business activities.** Pursuant to its home rule authority and for the purpose of protecting the safety, health and welfare of the general public, a municipality may establish by ordinance licensing procedures, standards and appropriate fees to cover the administration, regulation and enforcement of recreational business activities including without limitation bowling alleys, shooting galleries, pool, bagatelle and billiard rooms, pinball machine operations, public exhibitions and roller and ice skating rinks.

## Part C

Sec. 1. 13 MRSA §1101, as repealed and replaced by PL 2013, c. 421, §1, is 2 amended to read:

### **§1101. Maintenance and repairs; municipality**

**1. Grave sites of veterans in ancient burying grounds.** In any ancient burying ground, as referenced in Title 30-A, section 5723, the municipality in which that burying ground is located, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, shall keep in good condition all graves, headstones, monuments and markers ~~and, to of Revolutionary soldiers and sailors and veterans of the Armed Forces of the United States.~~ To the best of its ability given the location and accessibility of the ancient burying ground, the municipality shall keep the grass, weeds and brush suitably cut and trimmed on those graves from May 1st to September 30th of each year. A municipality may designate a caretaker to whom it delegates for a specified period of time the municipality's responsibilities regarding an ancient burying ground.

**2. Grave sites of veterans in public burying grounds.** In any public burying ground in which a veteran of the Armed Forces of the United States is buried, the municipality in which that burying ground is located, in collaboration with veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, shall keep the grave, headstone, monument or marker designating the burial place of any veteran of the Armed Forces of the United States in good condition and repair from May 1st to September 30th of each year, ~~including:~~

~~A. Regarding the grave site to make it level when the grave site has sunk 3 or more 2 inches compared to the surrounding ground;~~

~~B. Maintaining the proper height and orientation, both vertical and horizontal, of the headstone, monument or marker;~~

~~C. Ensuring that inscriptions on the headstone, monument or marker are visible and legible;~~

~~D. Ensuring that the average height of grass at the grave site is between 1.5 to 2.5 inches but no more than 3 inches;~~

~~E. Keeping a flat grave marker free of grass and debris; and~~

~~F. Keeping the burial place free of fallen trees, branches, vines and weeds.~~

Each municipality in which a public burying ground is located shall adopt standards of good condition and repair to which grave sites of veterans of the Armed Forces of the United States must be kept.

Sec. 2. 13 MRSA §1101-A, sub-§4 is enacted to read:

**4. Public burying ground.** "Public burying ground" means a burying ground or cemetery that is municipally owned and operated.

**Sec. 3. Adoption of standards.** By June 30, 2016, a municipality that is required to maintain and repair a veteran's grave site pursuant to the Maine Revised Statutes, Title 13, section 1101, subsection 2 shall adopt standards of good condition and repair to which grave sites of veterans of the Armed Forces of the United States must be kept.

#### **Part D**

**Sec. 1. State-Local Intergovernmental Working Group; Established.** The Commissioner of the Department of Administrative and Financial Services (Commissioner), in consultation with the Maine Municipal Association and the commissioners of all state agencies responsible for the implementation of municipally-performed state mandated activities, shall establish the State-Local Intergovernmental Working Group. The Working Group must include the Commissioner or the Commissioner's designee and no more than six municipal officials recommended by the Maine Municipal Association. The purpose of the Working Group is to establish a two-way communication system between the oversight state agencies and the municipalities that perform the mandated activities with the goal of establishing more efficient, effective and cost effective approaches to the implementation and administration of the mandated activities. The Working Group must meet periodically, at the call of the Commissioner, to address the implementation of one or more specifically identified state mandates, including without limitation the several issues specifically identified as deserving review in the final report of the Mandate Working Group as established by Part WW of PL 2013, c. 368. No later than January 15 of each even-numbered year, the Working Group must report its activities, along with any recommendations, to the Joint Standing Committee on Appropriations and Financial Affairs. Unless reauthorized by legislative act, the State-Local Intergovernmental Working Group is sunsetted and shall no longer exist on January 1, 2019.

#### **Part E**

**Sec. 1.** The Office of Fiscal and Program Review (OFPR) and the Office of Policy and Legal Analysis (OPLA), in consultation with the Office of the Attorney General and the Executive Director of the Workers' Compensation Board, shall review the entire record of the development of LD 621, *An Act Allowing Workers Compensation Benefits for Firefighters Who Contract Cancer*, enacted in 2009 as PL 2009, chap. 408. The review must include all committee activities prior to reporting the bill out to the full legislature, all relevant legislative activities prior to final enactment, and subsequent financial and activity-related impacts on municipal government. The purpose of the review is to determine whether or not the legislation constitutes a state mandate as defined by Article IX, section 21 of the Constitution of Maine. The review must include, without limitation, the reasons why the OPLA file on LD 621 is missing from the archives, whether or not LD 621 was identified as a state mandate by OFPR, the nature of the decision-making that removed the mandate preamble from the legislation prior to enactment, the nature of testimony provided by the Workers' Compensation Board refuting all analyses suggesting the legislation would significantly increase municipal expenditures, the degree to which the law has already increased and is expected to further increase municipal expenditures, whether or not the law is properly characterized as either expanding or modifying the activities of local government, and what steps should be taken, if any, to bring the enactment of LD 621 into alignment with the requirements of Maine's Constitution and any pertinent implementing statute.

No later than January 15, 2015, the Offices shall report to the Joint Standing Committee on Appropriations and Financial Affairs their findings and recommendations, if any. The joint standing committee is authorized to report out a bill related to the subject matter of the report to the First Regular Session of the 127<sup>th</sup> Legislature.

### Part F

Fund for the Efficient Delivery of Local and Regional Services

Program Summary

General Fund	2013-14	2014-15
	\$0	\$500,000
	\$0	\$500,000

Initiative: Appropriation to capitalize 30-A MRSA, chapter 231, Fund for the Efficient Delivery of Local and Regional Services

**Summary.** This bill represents the report of the Mandate Working Group established by Part WW of PL 2013, chapter 368. In summary, the bill repeals or redesigns numerous sections of state law for the purpose of eliminating archaic and unnecessary state mandates or reducing or otherwise mitigating the financial impacts of state mandated functions performed by local governments. The bill also establishes a State-Local Intergovernmental Working Group for the purpose of establishing a two-way communication system between the state agencies that oversee the performance of certain functions required of municipal government. The bill also directs two nonpartisan offices of the Legislature to review the enactment of legislation in 2009 for the purpose of determining whether that law meets the definition of state mandate as provided in the Constitution. The bill also capitalizes the Fund for the Efficient Delivery of Local and Regional Services, which has been dormant for nearly a decade, in response to the Working Group’s findings that the design of certain state mandates can impede in municipal efforts to institute collaborative or consolidated service delivery systems.

Specifically, this bill does the following:

Under Part A of the bill:

In section 1, the bill amends the law to allow governmental entities to recover their actual costs when responding to large-scale public record requests that require more than 20 hours of staff time in response.

In section 2, the bill amends the law governing the rate that local police officers are compensated for providing witness services or court officer services in district court to cover the municipality’s actual salary expenditures. Current law provides \$50 per day in compensation.

In section 3, the bill amends the law governing dog licensing and animal control ordinances to clarify that the municipality can impose fees necessary and appropriate to finance the cost of animal control services.

In section 4, the bill repeals as archaic the law requiring the local appointment of an inspector of weights and measures.

In section 5, the bill requires the courts to surcharge all fines or penalties imposed to obtain the actual costs of the municipal officers who provided witness services. Current law allows for the imposition of that surcharge to be discretionary.

In section 6 and section 8, the bill amends the statutes governing the formation of a municipal board of appeals and board of assessment review, respectively, to establish as a minimum standard in both cases that the boards consist of at least 3 members, thereby allowing the municipalities through their home rule ordinances to create boards that are larger in size.

In section 7, the bill requires the costs associated with training personnel at public safety answering points according to mandated “quality assurance” protocols to be paid for with E-9-1-1 surcharge resources.

In section 9, the bill amends the law governing the annual municipal report to allow a town or city’s legislative body to authorize the on-line rather than hard-copy publication of the report.

In section 10, the bill amends the statute governing the imposition of certain state fees for heating boiler inspections to exempt municipalities and the schools in the same way all other owners of heating boilers are exempted.

In section 11, the bill amends the notice that must be provided to a landowner who is noncompliant with a requirement to update his or her forest management plan under the Tree Growth tax program so that a single formal notification and penalty assessment system must be imposed rather than the duplicate notification system currently required.

In section 12, the bill repeals as archaic the requirement that a municipality appoint an inspector of boats and lighters.

In section 13, the bill requires the Commissioner of the Department of Environmental Protection to waive all licensing and permitting fees assessed against municipal governments for activities or functions that are required of those municipalities as a result of unfunded state mandates, while retaining the obligation for the municipalities to obtain the required licenses or permits.

#### Under Part B.

In sections 1-3 and 6 of Part B, the requirements that municipalities administer a licensing program for a range of recreational activities, such as bowling, billiards, roller skating, etc., are repealed and a single statute is enacted expressly authorizing the municipal licensing of these activities pursuant to ordinances adopted under municipal home rule authority.

In section 4, the bill amends the statute governing the licensing of going-out-of-business sales to establish those same licensing requirements only in those municipalities that choose to adopt such a licensing ordinance.

In section 5, the bill amends the statute governing the licensing of pawnbrokers to establish the requirement for pawnbrokers to be locally-licensed to apply only in those municipalities that choose to adopt such a licensing ordinance.

#### Under Part C.

In sections 1-3, the bill amends the law governing the municipal requirements to maintain veterans’ graves, as substantially amended by PL 2013, c. 421, to establish that the maintenance requirements must be achieved by the municipality in collaboration with veterans’ organizations and other civic groups. These sections of the bill also replace the statutory standards of proper cemetery maintenance with a requirement that each municipality adopt its own standards of property cemetery maintenance within the next two years.

Part D of the bill creates the State-Local Intergovernmental Working Group for the purpose of establishing a two-way communication system between the oversight state agencies and the municipalities that perform the mandated activities with the goal of establishing more efficient,

effective and cost effective approaches to the implementation and administration of the mandated activities.

Part E of the bill directs the Office of Fiscal and Program Review and the Office of Policy and Legal Analysis to review the entire record of the development, legislative activities, and subsequent impacts associated with LD 621, *An Act Allowing Workers Compensation Benefits for Firefighters Who Contract Cancer*, enacted in 2009 as PL 2009, c. 408, to determine whether or not the legislation constitutes a state mandate as defined by Article IX, section 21 of the Constitution of Maine.

Part F of the bill appropriates \$500,000 for FY 15 for the purpose of capitalizing the Fund for the Efficient Delivery of Local and Regional Services in response to findings of the Mandate Working Group that state mandated consolidation programs have not proven effective and that in some cases the design of state mandates is an impediment to municipal efforts to develop collaborative or consolidated service delivery systems.