

March 17, 2016

Maine clean elections tax haven proposal remains unfinished in Senate

Maine State Chamber supports Republican proposal to fund Maine clean elections

As of close of session on Wednesday, March 16, **LD 1634, An Act to Provide Tax Revenue to Offset Transfers to the Maine Clean Election Fund**, remained on the calendar under “unfinished business.” On Tuesday, March 8, the Maine House of Representative voted 77-67 to engross LD 1634. The bill comes from the Taxation committee with a report divided 6-6 along party lines. As drafted, the bill would offset the transfer of \$3 million from the General Fund to the Maine Clean Election Fund by requiring corporations that file unitary income tax returns in Maine to include income from certain jurisdictions outside the United States in net income when apportioning income among tax jurisdictions.

As you recall, Maine voters passed last November the Maine Clean Election referendum question (55% to 45%) that requires the Taxation committee to report out a bill, within 45 days of the effective date of the law, to permanently eliminate \$6 million of “corporate tax expenditures” over the biennium (\$3 million per year) to fund clean elections. The measure also requires that the \$6 million in business tax expenditures *must* come from “low performing” incentives identified by the Office of Program Evaluation and Government Accountability (OPEGA).

The Taxation committee worked on a bill for several weeks, struggling with the decision of where to get the resources to increase the Maine Clean Elections Fund. First the referendum did not define “cor-

porate tax expenditures,” so it was unclear what constituted that definition. As a result, the term “corporate tax expenditures” could have included any one of the 400-plus tax expenditures that are currently on the state’s books. Second, OPEGA has not even begun to conduct its performance review of tax expenditures, so it would be premature for OPEGA to recommend the elimination of any tax expenditure prior to conducting the review.

Ultimately, Republicans proposed to require the measure be funded from the general fund rather than from eliminating corporate tax expenditures. Whereas, the Democrats on the committee voted to fund the measure through adopting language similar to what was found in **LD 341, An Act to Prevent Tax Haven Abuse**.

The Maine State Chamber strongly opposed that bill during the first regular session in 2015. The bill eventually died in non-concurrence. Like LD 341 (as drafted), LD 1634 would have established a “black list” of countries, labeling them as “tax havens,” where there was a premise that companies located there to avoid paying taxes on income generated. The “blacklisting” of countries was arbitrary and discriminatory. It targeted some countries, but not others.

Maine companies would have been subjected to tax on income generated in those countries and Maine income tax as well, essentially double taxation. Even though the bill tries to avoid it, it would

Continued on Page 2...

Legislature's Government Oversight Committee meets with OPEGA

The Government Oversight Committee (GOC) met with the Office of Program Evaluation and Government Accountability (OPEGA) on Friday, March 11 to continue discussions on comments made at a February 26 meeting regarding specific recommendations that propose to improve the efficiency, effectiveness and value of future evaluations of economic development programs undertaken by the Maine Department of Economic and Community Development (DECD). Members of the Taxation committee and the Labor, Commerce Research and Economic Development committee also attended the meeting.

The GOC is considering introducing legislation to make statutory changes to implement certain specific actions. Those recommendations are as follows:

- 1 To combine the separate statutorily-required evaluation of research and development programs and the comprehensive economic development evaluation into one evaluation (statutory change);
- 2 To establish a timeline for the evaluation that provides increased opportunity for legislative review, consideration and action on reported results or related initiatives proposed by DECD and to change due dates to odd numbered years on a four-year cycle (statutory change);

Continued on Page 3...

Inside Impact...

Clean Elections/Tax Havens	p. 1
Digest of Legislation p. 2
OPEGA Review p. 1
Regional Breakfasts p. 4

**Connect with us
on these social
media platforms!**



Vol. 50, No. 10 *Impact* (207) 623-4568

Impact (ISSN 1055-3029) is published weekly January through June and monthly July through December by the Maine State Chamber of Commerce, 125 Community Dr., Suite 101, Augusta, Maine 04330-8010. Periodicals postage paid at Augusta, Maine, and additional mailing offices. Maine State Chamber member companies are assessed \$75.00 yearly for each newsletter subscription (subscribers or out-of-dues assessment). **POSTMASTER:** Please send any address changes to **Impact**, 125 Community Dr., Suite 101, Augusta, Maine 04330-8010.

Chairman of the Board of Directors:

Melinda Poore

President: Dana F. Connors

Information in this newsletter is intended to provide guidance, not legal advice. Since exact language and definitions of key terms are critical to understanding the requirements of legislation, rules or laws, we encourage you to read each carefully. Articles and information contained in this newsletter may be reprinted with attribution given to: Maine State Chamber of Commerce. Please address comments to Melanie Baillargeon, director of communications. Information about the Maine State Chamber of Commerce may also be viewed on the Internet at: www.mainechamber.org. Our email address is news@mainechamber.org.

About the Maine State Chamber of Commerce: Since 1889, the Maine State Chamber has been fighting to lower your cost of doing business. Through our Grassroots Action Network and OneVoice program, we work with a network of approximately 5,000 companies statewide who see the value in such a service and provide the financial support that keeps our access, advocacy, and assistance efforts going strong. As Maine's Chamber, we make sure that the business environment of the state continues to thrive. The Maine State Chamber of Commerce advocates on behalf of their interests before the legislature and regulatory agencies and through conferences, seminars, and affiliated programs.

Tax Havens and Maine Clean Elections Funding... (Continued from Page 1...)

be literally impossible to do. The U.S. has always adopted what is called the "arms-length" or "waters-edge" approach to taxing income. In that situation, the tax is imposed in the country where the income is generated. This legislation would have interfered with federal tax treaties already in place and would have threatened U.S. trade relations. Last year, in response to a similar proposal, the embassies of Liechtenstein and Luxemborg both wrote letters to Taxation committee members and to the Legislature urging them to vote against this legislation.

While Maine voters did approve the statewide clean elections referendum ques-

tion (Question 1) on the ballot in November 2015, the vote was a lot closer than early polls showed. The gap was narrowed substantially due to the work by the "No on Question 1" coalition formed by the Maine State Chamber and 14 other business associations statewide, representing thousands of Maine employers across the state. Coalition members were not opposed to clean elections – they were all opposed to the funding mechanism contained in Question 1.

The Maine State Chamber will continue to monitor LD 1634. If you have any questions, please contact Linda Caprara by calling (207) 623-4568, ext. 106, or by emailing lcaprara@mainechamber.org. □

Digest of New Legislation

Maine Chamber staff have studied each of these recently printed bills to assess potential impact on business trends. If you have concerns regarding any bill, please communicate those concerns to a member of our governmental services staff at (207) 623-4568.

A total of 22 business-related bills have been tracked to date since the session began on January 6, 2016!

TAXATION

LD 498, An Act to Restore the Super Credit for Substantially Increased Research and Development. (Rep. Robert Nutting) *Joint Standing Committee on Taxation*. The bill restores retroactively the availability of the super credit for qualified research expenses that expired January 1, 2014.

LD 1583, An Act to Provide for Tax Conformity and Funding Methods. Emergency (Sen. James Hamper) *Joint Standing Committee on Appropriations and Financial Affairs*. This bill affects Maine's income tax laws. The bill provides for tax conformity with the United States Internal Revenue Code of 1986 for tax years 2015. It would increase Section 179 business deduction limit to \$500,000 for tax year 2015 and provide for a Maine Capital Investment Credit of 9% for corporations, 8% for individuals for tax year 2015.

LD 1634, An Act Regarding the Maine Clean Election Fund. Emergency (Rep. Peggy Roundto) *Joint Standing Committee on Taxation*. The bill offsets the annual transfer of \$2 million of General Fund revenue to the Maine Clean Election Fund by requiring corporations who file unitary tax returns in Maine to include income from certain jurisdictions outside of US in net income when apportioning income among jurisdictions.

LD 1641, An Act to Establish a Commission to Reform Public Education and Improve Student Performance in Maine and Make Supplemental Appropriations and Allocations for the Expenditures of the Department of Education and to Change Certain Provisions of the Law Necessary to the Proper Operations of Government for the Fiscal Year Ending June 30, 2017. Emergency (Rep. Ken Fredette) *Joint Standing Committee on Education and Cultural Affairs*. Among other things, this bill provides \$15 million in additional funding in fiscal year 2016-17 for General Purpose Aid to Schools. It also directs the Commissioner of Education to convene a commission to reform public education funding and improve student performance in the state. □

OPEGA Review... (Continued from Page 1...)

- 3 To ensure there is an adequate level of funding available to accomplish the evaluation on the desired timeline (reconsideration of current funding mechanisms established in 5 MRSA §§13056-C.3 and 13109.4, and a possible statutory change);
- 4 To further define and clarify scope and expectations for the DECD evaluation (possible statutory change to 5 MRSA §§13056-A and 13107);
- 5 To require that a formal, public, current economic development strategy be developed and maintained as part of the scope of the evaluation in determining how well the state is achieving its economic development goals and objectives. A statutory change may be needed to make this a responsibility of DECD. It may also be possible to instead require evaluation that addresses to some degree the *Measures of Growth* tracked by Maine Development Foundation;
- 6 To establish function, process and tools for DECD to efficiently and regularly collect from benefitting organizations the data and information needed to monitor and evaluate program activity and effectiveness for *all* economic development programs in the state's portfolio / inventory. This may require a statutory change for additional DECD resources on an on-going basis and one-time resources to design and build the process and tools that would support this function, including determining what data needs to be collected;
- 7 To establish a mechanism that gives DECD, and others as necessary, the authority and clout to compel organizations to provide the data requested (statutory change);
- 8 To establish expectation and process for ensuring that DECD evaluations of economic development programs and OPEGA evaluations of tax expenditures are coordinated and complementary, rather than duplicative (statutory change); and,

- 9 To establish expectation, responsibilities and mechanism for ensuring results and recommendations from DECD evaluations are considered and acted on as appropriate by the Administration and/or Legislature (statutory change).

Initially, the GOC discussed initiating legislation to deal with a couple of the items above. However, upon OPEGA's recommendation, the GOC decided to wait until next legislative session to put legislation in dealing with all of the above recommendations.

In the meantime, OPEGA will be working on a plan for the Taxation committee to review tax expenditures related to the "necessities of life." That review will happen sometime this summer. OPEGA also reported that tax expenditure reviews on ETIF, Pine Tree Zones, and New Markets Tax Credit are ongoing.

If you have any questions, please contact Linda Caprara by calling (207) 623-4568, ext. 106, or by emailing lcaprara@mainechamber.org. □

Altria Today

OPEN

Growing **Together**

Take a closer look at Altria.com

Altria's companies promote economic development in the communities we call home.

We support initiatives that attract capital investment and create new jobs. We're committed to leadership development programs that prepare future leaders for community service.

Altria salutes the Maine State Chamber of Commerce.

 Altria

Philip Morris USA • U.S. Smokeless Tobacco Company • John Middleton
Nu Mark • Ste. Michelle Wine Estates

© Altria Group, Inc. 2015



A proud supporter of
**the Maine State
Chamber of
Commerce**



500 Southborough Drive, Suite 105B
South Portland, ME 04106 | 207.889.3150

Engineers | Scientists | Planners | Designers

Periodicals

Postage Paid

Lisbon, ME

125 Community Drive, Suite 101
Augusta, Maine 04330-8010



MARK YOUR CALENDAR!

MAINE S T A T E CHAMBER *of* COMMERCE

Lewiston/Auburn:

2016 REGIONAL BUSINESS BREAKFAST MEETINGS

from 7:30 a.m. to 9:00 a.m.

Tuesday, April 26 ♦ Hilton Garden Inn

Greater Portland:

Date TBD ♦ Anthem Blue Cross & Blue Shield

Greater Bangor:

Tuesday, May 3 ♦ Husson University

Northern Maine:

Wed., May 4 ♦ University of Maine Presque Isle

Maine State Chamber's annual **Regional Business Breakfasts** bring "the Chamber to your region," enabling us to hear first-hand about the concerns of each region's local businesses, as well as providing an opportunity to present the latest public policy information that employers there need to know. *Space is limited and "first come, first served."*

Please RSVP to Amy Downing by emailing adowning@mainechamber.org.