

MEMORANDUM

TO: MYCA Directors & Ron Hall
FROM: Jack Erler
DATE: January 20, 2015
RE: Government Relations Report

Legislative Documents (LDs) are beginning to be published for the 127th Legislative Session. So far there are 107 of what is likely to be somewhere between 1,500 and 2,000. The following are of interest to camps.

The Governor has presented his Budget to the Appropriations Committee. Given his intent to eliminate income taxes as he stated in his inaugural address, the Budget provisions; (1) increasing both the scope and amount of sales tax and (2) requiring nonprofit tax exempt organizations to pay property tax are no surprise.¹

These provisions would negatively impact camps. In addition, having to fight both of these in the same year may focus attention on the fact that camps are both for profit and nonprofit. This could lead to granting sales tax on services exemption only for nonprofits to the competitive disadvantage to for profit camps. Over the years we have attempted to avoid this issue.

First, all camps would be affected by the imposition of sales tax on camp tuition. The tax rate would be 5.5% this year and 6.5% beginning in 2016. The Budget at Part H provides for sales tax to be imposed on "Recreation and amusement services". These services are defined as follows:

9-G. Recreation and amusement services. "Recreation and amusement services" is defined pursuant to this subsection.

A. "Recreation and amusement services" means the following, unless excluded under paragraph B:

¹ Certain sales tax exemption would also be eliminated by provisions in the Budget. However, neither the exemption for meals served at camp nor any other exemption affecting camps has been eliminated.

(1) Amusements, attractions, entertainment venues and performances, including but not limited to theaters, movies, lectures, concerts, festivals, amusement parks, water parks, fairs, race tracks, festivals, carnivals, circuses, sports activities, stadiums, amphitheaters, museums, planetariums, animal parks, petting zoos, aquariums, historical sites, and convention centers;

(2) Participation in or entry to sporting or recreational activities, including but not limited to golf, skiing, tennis, miniature golf courses, arcades, billiard parlors, disc golf, laser tag, bowling, go-cart courses, paintball and fitness and exercise centers;

(3) Exhibition shows including but not limited to auto, boat, camping, home, garden, trade, arts and crafts, animal, and antique shows;

(4) Scenic and sight-seeing excursions, including but not limited to aircraft, helicopter, balloon, blimp, watercraft, railroad, bus, trolley and wagon rides, whitewater rafting and guided recreation;

(5) Entertainment services, including but not limited to those provided by bands, orchestras, disc jockeys, comedians, clowns, jugglers, children's entertainers and ventriloquists; and

(6) Lessons or training in dance, music, theater, arts and gymnastics, martial arts and other athletic pursuits.

B. "Recreation and amusement services" does not include:

(1) Admission to a licensed agricultural fair or participation in any events or activities organized by a school or incorporated nonprofit organization occurring at such a fair if all the proceeds from the event or activity are used for the charitable purposes of the school or incorporated nonprofit organization;

(2) Scenic and sightseeing excursions on federal navigable waters; and

(3) Participation in or entry to casinos, lotteries and pari-mutual betting.

The language of this new definition appears to include camp tuition. Currently I see three ways to attempt to exclude camps.

1. Insert in B above the following statement of what is not "recreation and amusement services"; "Tuition for attendance at a youth camp licensed by the Department of Health and Human Services and defined in Title 22, section 2491, subsection 16." There are some other places in the definition section to add language to exclude camps but none better than the section described here.

2. Attempt to limit the definitions of “recreation and amusement services” to exclude camp tuition without identifying youth camps. This will be difficult given that the categories start with the words; “including but not limited to”.
3. Do nothing (or lose in any attempt to change the language or defeat the bill) and later argue that according to category 6, the only part of tuition subject to sales tax is for teaching camp activities. This is not a winner because of the broader language in category 2.

Second, most if not all nonprofit tax exempt camps would be affected by the imposition of property tax beginning in 2016. The Budget at Part E limits tax exemptions as follows:

“Excluding property qualified for exemption under paragraph G (Houses of religious worship), property held by an owner possessing property with an aggregate just value exceeding \$500,000 in the same taxing jurisdiction is only entitled to a 50% exemption for that part of the property’s just value in excess of the aggregate just value of \$500,000.”

Most if not all nonprofit tax exempt camps have all of their real property in one town; and its value is almost certainly in excess of \$500,000 based on its size, buildings and location as waterfront property.

Passing the Budget is a long term project. However, it is always the goal of the legislature to get a Budget by April 1st to avoid needing “emergency” legislation. The Budget is passed by the Appropriations Committee but parts such the tax provisions discussed above will be farmed out to the Taxation Committee. We will need to work both Committees on these issues. Given the broad reach of both of these proposals we will have lots of company in this fight. There is also likely to be winners and losers in this process; so everyone will not necessarily be our friend.

In addition to the Budget the following bills have been printed and will shortly be going to public hearing.

LD21 An Act to Amend the Medical Marijuana Laws. This is a “Concept Bill” so we do not know what is being proposed.

LD22 An Act to Require Removal of Mooring Equipment. This bill requires the removal of mooring equipment protruding above the surface of great ponds on or before December 1st of each year and establishes penalties.

LD23 An Act to Remove from the Maine Medical Use of Marijuana Act the Requirement that a Patient’s Medical Condition be Debilitating. This bill removes from the Maine Medical Use of Marijuana Act any limitation on the type of medical conditions for which patients may be certified by their physicians to engage in the medical use of marijuana.

There are three bills dealing with minimum wage as follows:

LD36 An Act to Increase the Minimum Wage. This bill raises the minimum wage to \$9.00 per hour beginning October 1, 2015 and to \$10.00 per hour beginning October 1, 2016 and provides that, beginning October 1, 2017, the minimum wage must be adjusted for inflation on October 1st of each year.

LD52 An Act to Adjust Maine's Minimum Wage. This bill raises the minimum wage to \$9.50 per hour beginning October 1, 2015.

LD72 An Act to Increase the Minimum Wage. This bill raises the minimum wage to \$10.10 per hour beginning October 1, 2015 and provides that, beginning October 1, 2016, the minimum wage must be automatically adjusted for inflation on October 1st of each year.

LD40 An Act to Protect Maine's Great Ponds. This bill creates a prohibition on the application of fertilizers within 50 feet of the normal high-water line of a great pond, with exceptions for persons involved in agriculture or applying fertilizer to establish or restore vegetation to stop, slow or remediate shoreline erosion or damage.

LD70 An Act to Assist Towns in Eradicating Milfoil and Other Invasive Aquatic Plants and Nuisance Species. This bill provides funding in fiscal years 2014-15 and 2015-16 in the amount of \$225,000 for the Lake and River Protection Fund within the Department of Inland Fisheries and Wildlife and in the amount of \$900,000 for the Invasive Aquatic Plant and Nuisance Species Fund within the Department of Environmental Protection. These General Fund distributions are intended to correspond to the annual average funds deposited into each of these accounts representing fees collected on motorboat and personal watercraft lake and river protection stickers issued pursuant to the Maine Revised Statutes, Title 12, section 13058, subsection 3. Pursuant to statute, these funds are used by each department to engage in activities relating to the containment, eradication and management of the spread of invasive aquatic plants and nuisance species in Maine, to assist municipalities and other entities in accomplishing these goals and to aid in the enforcement of laws and rules pertaining to invasive aquatic plants and nuisance species.

Subject to your approval, I plan to merely monitor these bills without taking a position.

Ron Hall is sending you with this report the names of members of those Committees who we may need to deal with in this Legislature. Please provide Ron with the following information:

- Identify any Legislator you, any board members or other camp managers know on any of these Committees, and
- The nature and extent of the relationship with each such Legislator.