Legislative BULLETIN
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Lawmakers Strongly Support Supplemental State Budget

With remarkably little debate, the supplemental state budget for the FY 2010-2011 biennium (LD 1671) was enacted by the Legislature this week. The final vote in the House was 110-35. The final vote in the Senate was 31-2. The emergency legislation bridges a $310 million gap between General Fund revenues (as most recently re-projected) and the appropriations enacted in the state's initial biennial budget enacted less than a year ago.

The supplemental state budget piles on $65 million in cuts to school subsidy, municipal revenue sharing and Tree Growth reimbursement to the $146 million in cuts already enacted last spring. When both the initial and supplemental state budgets are combined, the 124th Legislature enacted $212 million in cuts over the FY 2010-2011 biennium to the towns, cities, schools, and the property taxpayers that support local government.

(See chart to the right)

What follows is a description of the elements of the supplemental state budget just enacted.

School Subsidy: $48.2 million cut this round ($125.3 million over the biennium). The supplemental budget cuts General Purpose Aid for Local Schools by $38.1 million in the current fiscal year and $10.1 million in FY 2011. These reductions are applied on top of approximately $78 million in school subsidy reductions over the biennium enacted by the Legislature last spring. With these reductions, the state share of K-12 spending as measured by the Essential Programs and Services school funding model (EPS) will be 47% this year and 45% in FY 2011. Based on projections of recent actual spending levels, the state share of actual K-12 spending will be 43% over each year of the biennium. The 55% standard established by the Legislature in 1983 and re-set by Maine's voters in 2004 is nowhere to be found.

Revenue Sharing: $16 million cut this round ($60 million over the biennium). Last spring, the Legislature took $44 million out of municipal revenue sharing to balance the state's budget. The supplemental budget takes an additional $16 million by taking $6 million out of the

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FY 2010-11 State General Fund Budget
Cuts to Municipal and Property Tax Relief Programs

Program	FY 2010 (Current Year)	FY 2011 (Next Year)	Total Cuts (FY 2010 + FY 2011)
School Subsidy*	($47,208,223)	($78,106,470)	($125,314,693)
Revenue Sharing	($25,383,491)	($35,270,254)	($60,653,745)
Tree Growth	($877,500)	($1,468,500)	($2,346,000)
Circuit Breaker	($8,255,226)	($8,209,224)	($16,464,450)
Homestead Exemption		($6,900,607)	($6,900,607)
Total	**($81,724,440)**	**($129,955,055)**	**($211,679,495)**

Source: Office of Fiscal and Program Review
*School subsidy reductions are calculated on the basis of FY 2009 base state subsidy level.

Last Bulletin of the Session

The Legislature is expected to adjourn sometime in the middle of next week. Now that the budget has been enacted, the last major municipal issue on the table is the development and adoption of a bond proposal to go out to the voters in June to cover some vital transportation capital projects and to put up approximately $5 million for the drinking water and wastewater revolving loan programs. That relatively modest state contribution toward clean water infrastructure draws down over $25 million in federal funds at a 5:1 matching rate.

We will follow the journey of the bond proposal to its conclusion, but this will be the last *Legislative Bulletin* of this session. The April edition of the *Maine Townsman* will include an entire wrap-up of the legislative session, including complete summaries of all the new laws enacted which pertain to local government.

BUDGET *(cont'd)*

current year's revenue sharing distribution and another $10 million out of next year's revenue sharing. The combined revenue sharing cuts enacted by the Legislature will result in a 19.4% reduction in revenue sharing distribution this year and a 28.3% reduction next year. All of these cuts are imposed on top of the reductions that are already taking place in revenue sharing as a result of the slumping economy.

(See chart at top of page)

Year	Revenue Sharing w/ out Legislative Cuts	Total Legislative Cuts to Revenue Sharing	Total Revenue Sharing Distribution	Percentage Value of Legislative Cuts
FY 2010	$130,851,457	$25,383,491	$105,467,966	19.4%
FY 2011	$124,479,621	$35,270,254	$89,209,367	28.3%

The Homestead Exemption reimbursement "push": $5.4 million. Under current law, 80% of the homestead exemption reimbursement to which each municipality is entitled is provided by August 15th of the year in which the exemption is provided, and the remaining 20% of reimbursement is issued by December 15th of that same year. The supplemental budget amends that distribution to provide 75% of the entitled reimbursement by the August 15th deadline, but delays the payment of the remaining 25% (formerly 20%) of the reimbursement from the December 15th distribution to July 15th <u>of the following year</u>. By delaying this payment seven months, the state pushes a $5.4 million expenditure into the next biennium. It's an accounting gimmick. Although the push creates a cash-flow issue for all municipalities, the towns operating on a calendar fiscal year will be most affected by this delay in distribution.

Tree Growth Reimbursement : $531,000 cut this round ($2.35 million over the biennium). If the state was going to provide the amount of Tree Growth reimbursement called for by law, the appropriation would be $6.25 million. Last spring, the Legislature cut the appropriation by $877,500 for the current year and by $937,500 for FY 2011. The supplemental budget reduces the FY 2011 distribution by an additional $531,000.

Legislative Bulletin

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Editorial Staff: Geoffrey Herman, Kate Dufour, Jeff Austin, and Laura Veilleux of the State & Federal Relations staff.

Other Notables in the Proposed Budget. There are several other items of municipal interest in the proposed supplemental budget, including:

• **General Assistance.** The supplemental budget appropriates $880,000 for the current fiscal year and $1.46 million for FY 11 in order to make sure there are enough funds to adequately provide municipal General Assistance reimbursements.

• **Board of Corrections.** $3.5 million is appropriated in the supplemental budget for the Board of Corrections Investment Fund to provide for the operational needs of the county jails under the new unified correctional system.

• **Disaster Assistance.** The supplemental budget appropriates $1.75 million over each year of the biennium to pay the state's 15% share of disaster assistance provided for a half-dozen declared disasters, including flooding in 2005, the St. Patrick's Day Flood of 2007, the Patriots' Day Flood of 2007, the May flooding in 2008, the July/August floods in 2008, the December ice/snow events of 2008 and the June/July floods in 2009.

• **Property Tax Review Board.** The State Board of Property Tax Review has been absorbing budget reductions for several years, and now there are not enough funds to allow the Board to dispose of appeal requests in a timely manner. In an effort to provide additional funding to the Board, the supplemental budget bill creates a filing fee system similar to the filing fee system that is applied for appeals to Superior Court. The fees are established as follows:

– For applicants seeking an appeal from "current use" tax decisions made at the local level (e.g., Tree Growth, Farmland, Open Space), the filing fee will be $75.

– For applicants seeking an appeal from a valuation decision of a non-residential property with a taxable value over $1 million, the filing fee will be $150.

– There will be no filing fee for a municipality seeking an appeal from a state valuation determination made by Maine Revenue Services.

Other K-12 Education Issues.

• *Removing the non-consolidation penalty for some.* The supplemental budget includes an appropriation of $1.12 million to remove the financial penalty that would otherwise be applied to school systems that voted 'yes' on a school consolidation plan that was ultimately rejected because their proposed partners voted 'no'.

• *More flexibility in timing school budget validation votes.* Current law requires the school budget validation referendum vote to be scheduled within 14 days of the open meeting vote where the school budget is provisionally adopted. The supplemental budget bill extends that time period to within 30 days after the open meeting vote.

• *School budget validation referendum continuation question.* The supplemental budget bill establishes 2010 as the year for all school systems to place an article on the school budget referendum ballot which asks the voters if they wish to continue with the school budget validation referendum process. The supplemental budget bill also restores the opportunity that used to be in law for the voters in subsequent years to petition a referendum article to restore the school budget validation referendum process if referendum voting is discontinued by the voters and in later years the petitioners wish to see it restored.

• *Partial waiver of minimum local funding effort.* The supplemental budget provides that for the next two years, if the state is able to fund only a percentage of its 55% share of the Essential Programs and Services school funding model, there will be no proportional reduction in any school's state subsidy if the local school system raises at least the same percentage of their required local contribution. The bill repeals this statutory recognition of proportional-responsibility as of June 30, 2012.

The National Health Care Reform Legislation and Municipalities

The following memo was sent to the staff at the various state municipal leagues from the offices of the National League of Cities. It provides a very initial overview of the recently enacted national health care reform legislation as it pertains to towns and cities as employers. The memo is provided here verbatim.

As a follow-up to this information, MMA intends to publish a more comprehensive analysis of the health care reform legislation and its impact on municipal employers in the May issue of the *Maine Townsman*.

MEMORANDUM

TO: State Municipal League Staff

FROM: National League of Cities

SUBJECT: The New Health Care Reform Law and Cities

As you know, earlier this week, the President signed into law a bill that will fundamentally change health care delivery in the United States. While there are many outstanding issues and questions regarding the law, the purpose of this memo is to provide a summary of the law highlighting key provisions that will impact local governments as employers. This is the first of several updates on the new law that we will be providing to you as new information becomes available.

There has been much debate as to whether the cost of health insurance premiums will go up, down, or remain the same as a result of the new law. While there is no consensus as to the law's ultimate impact on the cost of specific health insurance plans, most economists agree that insurance costs for current coverage will go down. They also agree that, under the new law, the rate of increase of the cost of health care will be reduced and will result in federal savings of nearly $140 billion over the first ten years and $1 trillion over the first 20 years.

This memo is divided into the following sections:

• New Requirements for Employers

• Immediate Changes in Health Changes

• The Next Steps

New Requirements for Employers

In general, while local governments will need to review their health plans to determine if they comply with the new law and may have to modify their plans to meet new requirements, two fundamental and basic aspects of the way in which cities and towns provide health insurance will be retained: Local governments will be able to continue to self-insure and to participate in state-wide risk pools through which they can provide health insurance.

That being said, the new law is not without its controversial requirements, including employer mandates to provide and individual mandates to purchase health insurance; minimum coverage standards that apply to all health plans; public state-wide health insurance exchanges, where health insurance will be sold to individuals and small businesses of 100 or fewer employees; and a 40 percent excise tax on "Cadillac" health care plans that exceed a certain dollar level of benefits beginning in 2018.

Despite any controversy over these requirements and other provisions called for in the law, such as achieving near-universal coverage and expanding Medicaid, nothing in the law appears likely to force cities and towns to dramatically change the ways in which they currently provide health insurance to their employees.

This does not mean that cities and towns will be able to avoid making any changes to their health care benefits packages. New requirements on employers include the following:

• Local governments that self-insure must, after two years, demonstrate to the Secretary of Health and Human Services

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that their self-insurance plans are sufficiently funded or capitalized to cover all likely medical claims.

• The health care insurance local governments, like all employers, provide to their employees must meet coverage minimums.

• Local governments, like all employers, that already offer insurance to some workers must provide insurance to all workers—both full and part-time. This insurance will have to meet certain minimum cost, coverage, and reimbursement requirements that are prescribed by the law and the Department of Health and Human Services.

• In addition, all plans must include an "essential health benefits package" that would provide a comprehensive set of services that covers no less than 60 percent of the cost of the covered benefit. The "essential health benefits package" components will be defined and annually updated by the Secretary of Health and Human Services, but will have to include hospitalization and general health care by primary and specialty physicians.

Under the law, out-of-pocket expenses for any plan are limited to no more than $6,000 for individuals and $12,000 for families, and all plans must reduce out-of-pocket expenses for lower-income individuals and households by nearly 40 percent, without increasing overall costs.

Public sector employers, like all employers, may opt out of providing employees with health benefits, but if they do they must either provide subsidies for the purchase of insurance or may face penalties as high as $3,000 per full-time worker depending on the nature of non-compliance.

A 40 percent excise tax applies to employment-based health plans with premiums exceeding $10,200 for single coverage, $27,500 for a family plan, $11,850 for retirees, and $30,950 for employees in high-risk professions, such as police officers and firefighters.

Immediate Changes in Health Insurance

Several key provisions of the law take effect immediately (for a new federal law this means within six months) and will require changes in health insurance plans and documents.

The law:

- Prohibits pre-existing condition exclusions for children in all new plans;
- Provides immediate access to insurance for Americans who are uninsured because of a pre-existing condition through a temporary high-risk pool;
- Prohibits dropping people from coverage when they get sick;
- Lower seniors' prescription drug prices by beginning to close the donut hole and provides a $250 rebate to Medicare beneficiaries who hit the donut hole in 2010;
- Offer tax credits to small businesses to purchase coverage;
- Eliminates lifetime limits and restrictive annual limits on benefits in all plans;
- Requires plans to cover enrollees' dependent children until age 26;
- Requires new plans to cover preventive services and immunizations without cost-sharing;
- Ensures consumers have access to an effective internal and external appeals process to appeal new insurance plan decisions; and
- Requires premium rebates to enrollees from insurers with high administrative expenditures and require public disclosure of the percent of premiums applied to overhead costs.

The Next Steps

Over the next several months, the Department Health and Human Services, the Department of Labor, and the Internal Revenue Service will publish interim and final regulations governing the implementation of the health care reform law.

NLC will monitor the development of those regulations to help ensure they take into account a local government perspective.

Maine Model Cable Franchise Agreement Now Available

The Office of Information Technology (OIT), Maine Municipal Association and the Community Television Association of Maine (CTAM) announced recently that the long-awaited Model Cable T.V. Franchise Agreement is now available to towns that are in the process of cable television franchise renewal.

The new model is apparently the first of its kind in the nation and was created last year as a result of consumer protection legislation enacted in 2008 as PL 2007, chapter 548 "*An Act to Amend the Cable Television Laws and Establish a Model Cable Franchise Agreement*". The details of the model agreement were hammered out in more than 40 meetings between MMA, CTAM, OIT, the cable television industry, phone company representatives and other stakeholders.

According to Tony Vigue, board member of CTAM and Manager of South Portland Community Television, the need for an unbiased and generally accepted model franchise agreement has been long overdue. For many years, according to Vigue, smaller towns have had to accept the contract that the cable industry presented due to a lack of legal resources with expertise in this area. In some cases the larger municipalities might have the legal resources to draft a document that addresses the needs of the community and balances them with the requirements of federal and state law, but often the smaller towns were in the dark unless they worked together as a consortium and pooled their resources.

Jeff Austin is the MMA representative who participated in the working group process that resulted in the model agreement.

MMA believes the model franchise agreement is thoroughly developed and provides a satisfactory level of consumer protection and municipal benefits with multiple references to relevant federal and state statutes. It also includes non-compliance penalties and other protections for the towns. The franchise agreement that a town adopts will be tailored to the particular needs of a community. The model franchise is flexible in that several basic issues require further specific negotiation. These issues include but are not limited to: the franchise fee, the number of Public, Educational and Governmental Access (PEG) channels and type of PEG support, and build-out density.

These important topics in the model are not predetermined in a "one-size-fits all" manner. Instead, the model includes some "fill-in-the-blanks", the terms of which will be subject to local negotiation. The benefit of the model is that it provides standardized terms and conditions that should not require expensive negotiation to develop.

Franchise negotiations have been bogged down in more than 50 communities in Maine for several years due to many factors including a lack of knowledge about the process which can be intimidating and complicated. To properly negotiate a renewal, towns must start the process 36 months before the expiration date of their current franchise. Another factor in the delay can be the failure of the cable operator to meet the identified needs of the towns. Municipal ownership of the rights of way gives the town the right to charge a rental fee or "franchise fee" to the cable operator. But in addition to the franchise fees and line extensions, towns can also negotiate for capital grants to provide equipment funding for PEG channels. Fiber networks connecting municipal buildings can also be negotiated at this time.

The bottom line is that if a particular municipality becomes comfortable with the model, it should be in a very good position to successfully negotiate a cable franchise agreement. Municipalities do not have to use the model and are entirely free to propose changes. That said, the more substantive changes to the model a municipality seeks in its favor, a similar reaction could fairly be expected of a cable company.

It is also recommended that municipalities review their local cable ordinances to ensure that they are in agreement with their franchise, regardless of which franchise they choose to use.

Adobe Acrobat and Microsoft Word versions of the model cable t.v. franchise agreement, along with supporting documentation, can be found on the ConnectMe Authority web page: http://www.maine.gov/connectme/MaineModelCableFranchise.htm

Department of Education Provides Estimates of FY 2012 Subsidy Distribution

As a planning tool for school superintendents, the Department of Education has created a spreadsheet that attempts to project the school subsidy distributions to each school district for the year after next (FY 2012). For obvious reasons, the projected distributions are based on a number of assumptions because certain factors such as actual student counts or the amount of school subsidy appropriated by a future legislature cannot be predicted with complete accuracy at this time. For the purpose of this planning tool, the school subsidy appropriation is projected to be the FY 2011 state appropriation of $877 million, which does not include the $58.7 million in federal stimulus funding which will disappear after FY 2011. A full description of the assumptions that are used to generate this one-year-out forecast can be found as "Informational Letter #103" at this link http://www.maine.gov/education/edletrs/index.shtml

Municipal officials who wish to review this early forecast of FY 2012 school funding can find the spreadsheet at this link http://www.maine.gov/education/data/eps/PrelimProjectedGPA_FY12_04012010.pdf

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