

# The Federal Stimulus Legislation

On Tuesday this week President Obama signed into law the economic stimulus legislation enacted by Congress, which marks that date as the start-up point for the distribution of millions of federal dollars in Maine in a very wide variety of programs.

One of the stated goals, in fact, for many of the programs targeted for stimulus funds is to get the money out the government's door, contracted, and into the economy as quickly (as well as responsibly) as possible.

We are not the best experts here at MMA regarding the many ways the federal stimulus funds are going to be distributed. On page 3 a chart identifies the federal level of appropriation for a number of stimulus programs that will most directly affect municipal government, the approximate Maine share, and the contact information to the person or office at the appropriate state or federal agency most qualified to respond to an inquiry from municipal officials who may have questions about how to access a particular program. The following footnotes explain parts of the chart.

①**Maine's share.** The values provided here for Maine's share of the federal appropriation are approximations only, either based on various spreadsheets issued by partisan offices and lobbying groups or estimated by state agency personnel who are knowledgeable about distribution formulas. For now, these values should be recognized as rough estimates only.

②**Transit.** For Maine, the transit funds are primarily available for capital purchases for Maine's four largest municipal bus transit systems and infrastructure for ferry systems, although some

funding may also be made available for more rural-based small-bus systems, such as often are used by Community Action Program agencies and others to transport people to shopping centers, doctor's offices, etc. The final legislation provides

that within the total appropriation, 80% shall be provided through the Federal Transit Administration's urbanized formula, 10% through the rural formula,

*(continued on page 2)*

## Binding Arbitration for Assessment Appeals

On Tuesday this week the Taxation Committee held a public hearing on LD 349, *An Act to Authorize Arbitration of Property Tax Valuation Disputes*.

Sponsored by Senator Doug Smith (Piscataquis County), LD 349 would allow property owners who are dissatisfied with the decision of a local Board of Assessment Review to move the case to an arbiter who would have the sole authority to determine the "fair value" of the property in question. The bill describes the arbiter's qualifications, how the arbiter is chosen, and how the cost of the arbitration is paid for (50% taxpayer, 50% municipality). The decision of the arbiter would be binding and could only be altered or overturned by a Superior Court if the court found that the arbiter's decision was "procured by corruption, fraud or other misconduct."

In other words, the municipalities under LD 349 would effectively lose their right to appeal property tax abatement decisions into Maine's courts.

LD 349 is a slightly revised version of a similar bill submitted by Sen. Smith two years ago that was not supported by the previous Taxation Committee.

Four people testified in support of

LD 349 in addition to Senator Smith, including former State Representative Harold Clough from Scarborough who testified in general support but without any particular criticism of the current appeal process.

In contrast, Richard Bryant, an attorney from Portland, provided a sweeping criticism of all Boards of Assessment Review or, more specifically, the entire Board of Assessment Review process. Mr. Bryant believes the process is inherently unfair to the taxpayers because members of the local Board of Assessment Review panels are inherently and irrevocably biased in support of the position of the municipal assessor and the municipal treasury. Furthermore, according to Bryant, if the decision of the local Board of Assessment Review is based on bad evidence, flimsy evidence or even no evidence whatsoever, any appeal by the taxpayer to Superior Court is a wasted effort because the Superior Court is allegedly handcuffed from digging into the merits of the case.

A realtor from Standish and a retired real estate appraiser from Winthrop also

*(continued on page 6)*

## STIMULUS (cont'd)

and 10% through the "growing states and high density" formula.

③**Education stabilization.** The legislation provides that the portion of the State Fiscal Stabilization Fund dedicated to public education must be first used to restore state aid to school districts under each state's primary elementary and secondary education funding formulas to the greater of the FY 08 or FY 09 amount for each of the three fiscal years FY 09 (current fiscal year), FY 2010 and FY 2011 and, where applicable, to allow existing formula increases for elementary and secondary education for fiscal years 2010 and 2011 to be implemented. The funds must also be used to restore state support to public institutions of higher education. Apparently, the most immediate impact of the stimulus bill will be to restore the \$27 million reduction in state support for K-12 education for the current fiscal year that was cut as a result of the Governor's November, 2008 "curtailment order", a cut subsequently ratified by the Legislature in the recently-enacted supplemental state budget. The federal stimulus bill includes significant reporting requirements on the part of each state to document to the federal government how these stabilization funds were used and distributed, the number of jobs saved or created, the tax increases that were averted, as well as any number of educational performance standards that were achieved.

④**Non-education stabilization.** The language in the stimulus bill associated with this component of the State Fiscal Stabilization Fund suggests that the particular use of these funds is largely discretionary on the part of the Governor,

provided the funds are used "for public safety and other government services, which may include education services." The non-education side of this account may be one of the most discretionary accounts within the entire stimulus bill.

### ⑤**Energy Efficiency Block Grant.**

This appropriation supplements previous appropriations to the Energy Efficiency Block Grant program created by Congress in 2007. The federal law that governs this program provides that eligible recipients of these grants are a state, an Indian tribe, or one of the ten most populated cities in each state. These "eligible entities" may be provided federal grants to reduce fossil fuel emissions within their jurisdiction, reduce the total energy use, or improve energy efficiency in the transportation or business sector. 68% of all available grant funding is to be provided to local governments, 28% to the state governments, 2% to the Indian tribes and 2% to a competitive grant system for local governments that do not meet the population requirement. The funds provided under this program can be used for a very long list of energy conservation purposes including: (1) the development and implementation of an energy efficiency strategy; (2) conducting energy audits; (3) establishing financial incentives for energy efficiency improvements; (4) providing grants to nonprofit organizations and governmental agencies to implement energy efficiency retrofits; (5) developing and implementing energy efficiency and conservation programs for buildings and facilities within the jurisdiction; (6) developing and implementing transportation efficiency programs; (7) replacing traffic signals and street lights with energy efficient systems; (8) installing alternative energy systems in governmental buildings, etc. The federal program appears to further require a state that receives a grant to sub-allocate 60% of the grant to local governments in the state that are not eligible to receive direct grants from the federal government, so some of these resources may also become available to municipalities that are not among the state's most populated.

⑥**Weatherization.** This appropriation will apparently be distributed and implemented in the same manner as existing weatherization funds; that is, through

the state's Communication Action Program (CAP) agencies under the oversight of the Maine State Housing Authority. The program is primarily targeted to weatherizing the homes of lower-income residents who qualify for federal LIHEAP benefits.

⑦**Environment.** The contact people provided in the chart for this appropriation are extremely knowledgeable about their respective environmental programs for wastewater and drinking water infrastructure funding. There is apparently quite a list of project proposals already in the queue for these programs and the primary issue will be applying the various prioritization requirements that are in the federal legislation (e.g., "shovel readiness, capacity to pay, environmental sensitivity, etc.) to determine which of the projects already submitted will be awarded the supplemental stimulus funds.

⑧**Neighborhood Stabilization Program.** "Neighborhood stabilization" is newly-created program by Congress in response to the home foreclosure problem that has reached extreme levels in some regions of the nation. The core-funding for this program has apparently been previously appropriated by Congress and the \$2 billion appropriation in the stimulus bill merely supplements the previous appropriation. Because Maine is not experiencing an extreme home foreclosure problem, Maine's share of the original appropriation is the minimum possible allocation of \$19.6 million. In preparation for this appropriation, the Maine Department of Economic and Community Development submitted a plan to the federal government on how those resources would be distributed and used. The plan is found on the DECD website ([www.meocd.org](http://www.meocd.org)). The thrust of this program is to acquire and rehabilitate foreclosed and abandoned properties and otherwise assist in those properties being transitioned back into new ownership. As a result of certain data analysis, the plan identifies approximately 20 municipalities, primarily in York, Cumberland, Androscoggin, Kennebec and Penobscot counties (largely in the so-called "entitlement community" regions) that are experiencing a disproportionate amount of property foreclosures.

### Legislative Bulletin

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

Category	Federal Appropriation	Maine's Share (approximate) ①	Purpose	Contact Person
<b>Transportation</b>	\$1.5 billion	Undetermined; competitive	Grant for National Surface Transportation System	Greg Nadeau, MDOT 624-3004 <a href="mailto:exec.mainedot@maine.gov">exec.mainedot@maine.gov</a> or Kat Fuller, MDOT 624-3300 <a href="mailto:planning.mainedot@maine.gov">planning.mainedot@maine.gov</a>
	\$27.5 billion	\$130.7 million	Highway infrastructure investment	
	\$6.9 billion	\$13 million ②	Transit	
<b>Education</b>	\$10 billion	\$35 million range	Title I	Jim Rier, MDOE 624-6794 <a href="mailto:jim.rier@maine.gov">jim.rier@maine.gov</a>
	\$3 billion	Undetermined; performance-based	School Improvement Grants	
	\$12.2 billion	\$55 million range	Special Education	
<b>State Fiscal Stabilization Fund</b>	\$5 billion	Undetermined; competitive; performance-based	Secretary of Education for State Incentive Grants & Innovations Fund	Jim Rier, MDOE 624-6794 <a href="mailto:jim.rier@maine.gov">jim.rier@maine.gov</a>
	\$39.76 billion	\$160 million range ③	Governors must use to support elementary, secondary, higher ed	
	\$8.84 billion	\$37.5 million range ④	Governors must use for public safety and other government services (which may include education services)	Governor Baldacci's Office 287-3531
<b>Energy</b>	\$3.2 billion	Undetermined; competitive; eligibility-based ⑤	Energy Efficiency and Conservation Block Grant	On-line applications only: <a href="https://fedconnect.net/FedConnect/PublicPages/FedConnect_Ready_Set_Go.pdf">https://fedconnect.net/FedConnect/PublicPages/FedConnect_Ready_Set_Go.pdf</a> 1-877-337-3463 <a href="mailto:eeeric@ee.doe.gov">eeeric@ee.doe.gov</a>
	\$5.0 billion	\$42 million	Weatherization Assistance Program ⑥	Joanne Choate, MSHA 626-4600 <a href="mailto:jchoate@mainehousing.org">jchoate@mainehousing.org</a>
<b>Environment</b> ⑦	\$4 billion	\$30.8 million	Clean Water SRF	Steve McLaughlin, MDEP 287-7768 <a href="mailto:steve.a.mclaughlin@maine.gov">steve.a.mclaughlin@maine.gov</a>
	\$2 billion	\$19.3 million	Drinking Water SRF	Roger Crouse, MDHS 287-5684 <a href="mailto:roger.crouse@maine.gov">roger.crouse@maine.gov</a>
	\$1.38 billion	\$15 million in grants; \$45 million in low interest loans	Rural water and waste disposal program	Ron Lambert, USDA Rural Development 990-9121 <a href="mailto:ronald.lambert@me.usda.gov">ronald.lambert@me.usda.gov</a>
<b>Public Safety</b>	\$2.765 billion	\$11 million	State and local law enforcement assistance	Mary Lucia, MDPS 626-3831 <a href="mailto:mary.a.lucia@maine.gov">mary.a.lucia@maine.gov</a>
	\$1.0 billion	Undetermined; competitive	Community Oriented Policing Services (COPS)	On-line applications only: <a href="http://www.cops.usdoj.gov">www.cops.usdoj.gov</a> COPS Office Response Center: 1-800-421-6770
	\$500 million	Undetermined; competitive	Firefighter Assistance Grants for modifying, upgrading or constructing fire stations	Cathie Patterson, FEMA (202)786-9796
<b>Housing/ Infrastructure</b>	\$1 billion	\$3 million range	CDBG Supplement	
	\$2 billion	\$19.6 million ⑧	CDBG Neighborhood Stabilization Program	Michael Baran, DECD 624-9816 <a href="mailto:mike.baran@maine.gov">mike.baran@maine.gov</a>
	\$4.0 billion	Undetermined	Public Housing Capital Fund	Your local/regional public housing authority
	\$1.234 billion	\$8 million	Rural community facilities program	Ron Lambert, USDA Rural Development 990-9121 <a href="mailto:ronald.lambert@me.usda.gov">ronald.lambert@me.usda.gov</a>

## IN THE HOPPER

*(The bill summaries are written by MMA staff and are not necessarily the bill's summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the Legislative Bulletin to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, [www.memun.org](http://www.memun.org).)*

### **Business, Research & Economic Development**

**LD 652 - An Act To Clarify the Maine Uniform Building and Energy Code.** (Sponsored by Rep. Giles of Belfast; additional cosponsors.)

This bill makes several clarifying amendments to the legislation enacted in 2008 implementing the Maine Uniform Building and Energy Code. Among the several changes, this bill: (1) clarifies that a municipal building code ordinance is not "inconsistent" with the mandatory uniform code if it contains provisions of the national code upon which the Maine code is based that were not ultimately included in the Maine code; (2) clarifies that municipalities utilizing third-party inspectors as authorized by the law do not have to replicate the inspections done by the third party inspector; (3) clarifies that the municipality may entirely rely on the third-party inspection reports to issue an occupancy permit; (4) requires the State Planning Office to publish a list by January 1, 2010 of those municipalities that the state believes had previously adopted a building code and therefore must begin enforcement by the July 1, 2010 deadline; and (5) directs the Technical Building Codes and Standards Board to review issues regarding the third-party inspector system, including liability protection issues, to enhance the viability of the third-party enforcement option.

### **Judiciary**

**LD 641 - An Act To Notify Municipal Assessors of Foreclosure Actions.** (Sponsored by Rep. Beaudette of Biddeford; additional cosponsors.)

This bill requires any person holding a mortgage who is commencing a foreclosure action on the mortgagor to formally notify the municipal assessor in the municipality where the property is located. The notice of foreclosure must be provided to the assessor upon commencement of the foreclosure and 60 days prior to the completion of the foreclosure.

### **Labor**

**LD 621 - An Act Allowing Workers' Compensation Benefits for Firefighters Who Contract Cancer.** (Sponsored by Sen. Bartlett of Cumberland; additional cosponsors.)

This bill creates a rebuttable presumption in Maine's Workers' Compensation law that a firefighter who contracts cancer contracted the disease as a result of employment as a firefighter if during the course of the firefighter's employment the firefighter underwent a medical test for cancer that failed to detect the cancer. The requirement for a clean medical test during the period of employment does not apply to all currently employed full-time, call and volunteer firefighters. The presumption lasts for 20-years after an individual ends his or her employment as a firefighter.

### **Natural Resources**

**LD 645 - An Act To Provide for Municipal Oversight and Authority over Groundwater Extraction.** (Sponsored by Rep. Sarty of Denmark; additional cosponsors.)

This bill expands certain temporary regulatory authority currently provided to each town or city's municipal officers regarding surface uses of public water supplies. Specifically, the bill authorizes the

municipal officers to adopt regulations governing the extraction and removal of water from any surface water or groundwater source if the water is to be shipped out of the municipality for commercial purposes. If the municipal officers' regulations are subsequently ratified by the municipality's legislative body, the bill requires the municipal officers to submit to the legislative body a water extraction ordinance for its consideration within one year from the date of ratification.

**LD 646 - An Act To Improve the Water Quality of Maine's Rivers.** (Sponsored by Rep. Bolduc of Auburn)

This "concept draft" bill proposes to prohibit all discharges from pulp and paper mills and municipalities into state rivers.

**LD 663 - An Act To Clarify A Municipality's Authority To Pass Ordinances That Govern the Extraction of Groundwater.** (Sponsored by Rep. Schatz of Blue Hill; additional cosponsors.)

This bill establishes that there is no preemption in Maine law, either express or by implication, of the municipal authority to enact ordinances regulating the extraction of groundwater within the municipality.

### **State & Local Government**

**LD 587 - An Act To Allow a Board of Selectmen To Fill a Vacancy on That Board.** (Sponsored by Rep. Robinson of Raymond; additional cosponsors.)

This bill would authorize a board of selectmen to fill a vacancy on the board by appointment rather than election if the vacancy occurs more than 60 days before the next regularly scheduled annual meeting.

### **Taxation**

**LD 588 - An Act To Amend the Excise Tax on Motor Vehicles To Reflect Depreciation.** (Sponsored by Rep. Pilon of Saco; additional cosponsors.)

This bill amends the motor vehicle excise tax rate structure by fixing the mill rate at 20 mills for each year of registration and declining the applicable taxable base as follows: 95% of the Manufacturers Suggested Retail Price in the first year, 90% in the second year, 85% in the third year, 70% in the fourth year, 50% for the fifth year, and 15% for the sixth and succeeding years.

**LD 662 - An Act To Phase Out the Distribution of the Disproportionate Tax Burden Fund under the State-municipal Revenue Sharing Program over a 5-year Period.** (Sponsored by Rep. Shaw of Standish; additional cosponsors.)

This "concept draft" bill proposes to phase out the so-called "Revenue Sharing II" distribution system over a 5-year period, thereby returning in FY 2015 to the uniform revenue sharing distribution system that was in place prior to the creation of the Rev II system in 2000.

**LD 649 - An Act To Reimburse Communities That Have Constructed Sand and Salt Sheds Rated Priority 3 and 4.** (Sponsored by Rep. Pinkham of Lexington Township; additional cosponsors.)

This bill appropriates \$1.2755 million in FY 2010 for the purpose of providing funds to municipalities for the construction of Priority 3 and Priority 4 sand and salt sheds.

### **Utilities & Energy**

**LD 597 - An Act To Amend the Laws Governing Public Safety Answering Points.** (Sponsored by Rep. Cotta of China; additional cosponsors.)

*(continued on page 5)*

## LEGISLATIVE HEARINGS

*NOTE: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules and supplements are available at the Senate Office at the State House and the Legislature's web site at <http://www.state.me.us/legis/senate/Documents/hearing/ANPHFrame.htm>. If you wish to have updates to the Hearing Schedules e-mailed directly to you, sign up on the ANPH homepage listed above. Work Session schedules and hearing updates are available at the Legislative Information page at <http://www.state.me.us/legis/>.*

### *Monday, February 23*

#### **Appropriations & Financial Affairs**

**Room 228, State House, 9:00 a.m.**

**Tel: 287-1316**

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Transportation, (9:00 a.m.), Utilities (10:00 a.m.) and Natural Resources (1:00 p.m.)

#### **Marine Resources**

**Room 214, Cross State Office Building, 9:00 a.m.**

**Tel: 287-1337**

LD 294 - An Act to Require the Department of Marine Resources To Enforce Conditions in an Aquaculture Lease.

#### **State & Local Government**

**Room 216, Cross State Office Building, 10:00 a.m.**

**Tel: 287-1330**

LD 113 - An Act Regarding Construction and Excavation near Burial Sites.

**1:00 p.m.**

LD 209 - An Act To Abolish the Intergovernmental Advisory Commission.

LD 331 - An Act To Clarify the Duties of Municipal Treasurers, Clerks and Tax Collectors.

### *Tuesday, February 24*

#### **Appropriations & Financial Affairs**

**Room 228, State House, 1:00 p.m.**

**Tel: 287-1316**

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Education and Cultural Affairs

#### **Taxation**

**Room 127, State House, 1:00 p.m.**

**Tel: 287-1552**

LD 332 - An Act To Amend the Penalty for Withdrawal of Land from the Maine Tree Growth Tax Law Program.

LD 360 - An Act To Notify a Lienholder before Property Is Withdrawn from Assessment under the Maine Tree Growth Tax Law.

LD 380 - An Act To Require Residents of the Unorganized Territories To Pay Excise Taxes To Agents and Not Directly to the Secretary of State.

#### **Utilities & Energy**

**Room 211, Cross State Office Building, 1:00 p.m.**

**Tel: 287-4143**

LD 396 - An Act Regarding Installation of Solar Energy Systems under the Solar and Wind Energy Rebate Program.

### *Wednesday, February 25*

#### **Appropriations & Financial Affairs**

**Room 228, State House, 9:00 a.m.**

**Tel: 287-1316**

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Education and Cultural Affairs

Review includes proposed flat-funding of General Purpose Aid for Local Schools (GPA)

### *Thursday, February 26*

#### **Appropriations & Financial Affairs**

**Room 228, State House, 9:00 a.m.**

**Tel: 287-1316**

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Education and Cultural Affairs

#### **Judiciary**

**Room 438, State House, 1:00 p.m.**

**Tel: 287-1327**

LD 300 - An Act To Increase Child Support Collection by Expanding the New Hire Reporting Requirements.

LD 372 - An Act To Authorize the Administration of Epinephrine Autoinjectors and Asthma Inhalers in Emergencies.

#### **Transportation**

**Room 126, State House, 1:00 p.m.**

**Tel: 287-4148**

LD 338 - An Act To Improve the Visibility of Automobiles.

### *Friday, February 27*

#### **Appropriations & Financial Affairs**

**Room 228, State House, 9:00 a.m.**

**Tel: 287-1316**

LD 353 - Governor's proposed biennial budget

With the Joint Standing Committee on Taxation

The review includes the proposed 10% cut to municipal revenue sharing and Tree Growth reimbursement for both FY 2010 and FY 2011.

#### **Transportation**

**Room 126, State House, 10:00 a.m.**

**Tel: 287-4148**

LD 333 - An Act Making Unified Highway Fund and Other Funds Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2010 and June 30, 2011.

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## **HOPPER (cont'd)**

This "concept draft" bill proposes to enact specific requirements that must be met prior to any consolidation or reconfiguration of public safety answering points (PSAPs). The requirements include a cost-benefit study that analyzes the anticipated total system costs; the impact on direct dispatch, transfer routing and relay routing; and the specific benefits and costs to the affected municipalities. The concept draft bill also provides that each municipality affected by the proposed consolidation must be provided the opportunity to vote to accept or reject the proposal.

## ARBITRATION (cont'd)

testified in support of the bill. They reiterated Mr. Bryant's opinion that local Boards of Assessment Review both lack competency and are deeply biased.

MMA testified in opposition to LD 349 for at least six reasons.

- LD 349 adds another layer of appellate review and assessing case management to a process that already contains a number of check-and-balance steps.

- LD 349 mandates municipal participation in a binding arbitration process that completely blocks a municipality's right to judicial review.

- LD 349 appears to give the arbiter the sole authority to determine what the bill calls the "fair value" of the property without regard to burden-of-proof issues.

- The term "fair value" appears to have a substantially different meaning than "just value", which is the constitutional standard.

- LD 349 also establishes an inappropriately limited "marketing period" standard governing the overall "fair value" standard of review, raising serious questions about how the tax appeal would be adjudicated if the prescribed data standards were unavailable or sub-

stantially inapplicable to the subject property or pertinent real estate market.

- LD 349 is a required modification of municipal activities so as to necessitate additional municipal expenditures and, as such, is a state mandate.

As to the claims of board member incompetency and bias, it probably should be pointed out that at least three in-depth training programs made available over the last year to members of all Boards of Assessment Review (in the Portland area, in Bangor and most recently in Augusta) have been extremely well attended – even packed to capacity – by board members from all over the state to learn about their procedural and legal duties. Odd behavior, indeed, for a group of municipal appointed volunteers afflicted with the competency and prejudice issues claimed by LD 349's supporters.

In summary, LD 349 would appear to seriously narrow and redefine the standards of review governing tax abatement appeals and then shunt tax appeals away from the courts, so tax appeal case law would be even more scarce, and tax assessing appeals would occur more often in a precedential vacuum.

The Taxation Committee members seemed split on the bill, with two members publicly praising the bill's osten-

sible merits at the public hearing and others asking important questions about the bill's effect on the current standards of review regarding assessing appeals at both the local level as well as the Superior Court level, and defending the public policy reasons why those standards of review have been established.

Municipal officials are of the belief that assessing decisions deserve full access to the courts. Assessing decisions are rooted in the constitutional obligation to assess and apportion all property equally according to its just value. A good deal of tax law and assessing methodology is developed over time on the basis of court decisions. Maine's courts, and particularly the state's Law Court, give structure and definition to assessing law in a way lawyers hired to be arbitrators could never do. Tax assessing in Maine is rooted in the Constitution but LD 349 effectively blocks the right of one party in the adjudicatory proceedings – the municipality – from ever getting to a court to explore the constitutionally-based assessing issues that may be relevant to the appeal in question.