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Legislature Struggles with State Budget

Revenue Sharing/Tree Growth reimbursement cuts being considered

Almost a year ago to the day, the voters of Maine adopted a law – *The Act to Enact the School Finance and Tax Reform Act of 2003* – also known as "Question 1A".

Question 1A directed the Legislature to provide 55% of the cost of Kindergarten through Grade 12 education. Question 1A directed the Legislature to engage in comprehensive tax reform in order to provide that long-promised state share of K-12 education without "*reducing, freezing, eliminating or otherwise restricting the state revenues, appropriations or reimbursements that historically have been provided to or shared with municipalities, including without limitation: state municipal revenue sharing... property tax homestead reimbursement... tree growth reimbursements...county jail support...general assistance reimbursement...and local road assistance.*"

The obvious purpose of that section of Question 1A was to make sure the increased state assistance for public education would not be financed by cutting other sources of municipal subsidy, which would have the effect of reducing or eliminating the opportunity to provide property tax relief on the local level...the goal of Question 1A.

On January 20th this year, six months after Question 1A was adopted by the voters, the Legislature repealed Question 1A and enacted "LD 1" in its stead. LD 1 was Governor Baldacci's and the Legislature's alternative approach to implementing Question 1A.

As municipal officials are well aware, LD 1 will phase-in the state's obligation to provide 55% of the cost of education, as measured by the new Essential Programs and Services school funding model (EPS) over a four year period. LD 1 also institutes spending limitation systems for municipal, school, county and state government, modifies the municipal revenue sharing distribution system, and expands the eligibility and ben-

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. . . and Tax Reform

The parallel article in this edition of the *Bulletin* deals with the end-of-the-session effort of the Appropriations Committee to make some cuts to state and municipal government in an effort to finance the state budget enacted last March which was financed by a controversial borrowing plan.

On Wednesday this week (June 8), a slim majority of the Taxation Committee gave its approval to a sweeping tax reform plan that lays out the revenue side of the budget-balancing effort. The package was endorsed along party lines, with the Democrats and the lone Independent on the tax panel approving the package, and the Republicans voting against the package. The Republicans are insisting that any comprehensive tax reform package include a constitutional amendment that would firmly limit the growth in state spending on a year-to-year basis.

If enacted by the Legislature, the tax reform plan would gross $320 million over the biennium, but dedicate $122 million of that revenue to implement various income tax reductions, $36 million to fully fund the $13,000/50% unreimbursed homestead property tax exemption created by the Legislature in LD 1, and $15 million to a further expansion of the "circuit breaker" property tax and rent rebate program, which was significantly expanded in LD 1.

The remaining $147 million of newly generated tax revenue would be dedicated to the state's Budget Stabilization Fund, and ultimately available to fund the state budget.

The Taxation Committee recommendation cannot be faulted for being timid or anything less than comprehensive. A full range of ideas that have been discussed on a hit-or-miss basis over the course of the entire legislative session (and, in many cases, over the last decade), were moved "in" to the recommended

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BUDGET (cont'd)

efit levels of the circuit breaker property tax and rent rebate program.

In late March, the Legislature enacted a biennial budget designed to fund state government over the next two years, including the funding requirements of LD 1. The enacted budget relies on $450 million of borrowed funds, $250 million of which is directly related to funding the operations of state government over the next two years. The extensive state borrowing for operational purposes has been sharply criticized and is currently the subject of a citizen-initiated “peoples’ veto” effort.

With five days left in the scheduled legislative session, lawmakers are now focused on developing an alternative to the borrowing plan. The alternative package is being designed to include three main components: (1) cuts in funding for state programs; (2) cuts to municipalities and increased financial obligations for schools; and (3) increased state revenue.

Thursday this week (June 9), the Appropriations Committee began to review specific proposals to cut state government in an effort to pay for the state budget without borrowing. The Committee’s discussion was focused on an anonymous grab-bag of proposed cuts, a list that was generated without any specific attribution to which political party or which legislator on the Appropriations Committee was advancing each specific proposal. The Appropriations Committee’s list would cut state and local programs by approximately $150 million a year, or $300 million over the biennium.

Some of those proposed cuts include:

• A $10 million cut to municipal revenue sharing in FY 07, representing an 8.5% reduction.

• A $2 million annual cut to Tree Growth reimbursement to the municipalities, beginning this upcoming year.

• Putting $12.5 million in additional school costs annually onto local school budgets by making school budgets pick up a prorated share of Teacher Retirement premiums, which are currently paid by the state.

• Cuts in state aid for school bus purchases, saving the state $280,000 a year.

• A one-year delay to school construction projects, saving the state $5 million in FY 07.

• A 50% cut to the state park fee sharing program whereby 15% of all day use and camping fees derived from any state parks are provided to the municipality that hosts the state park. Under consideration is a proposal of the Department of Conservation to cut that program in half, providing only 7% of those fees to the host municipalities, reducing revenue to the affected municipalities by $230,000 a year.

• Repealing the comprehensive planning assistance function in the State Planning Office, saving the state $490,000 a year, and further cutting regional planning council grants by $50,000 a year.

Additional cuts directly or indirectly affecting municipal government include:

• Moving $3 million in state support for funding ferry services from the state’s General Fund to the Highway Fund. Presumably that shift would reduce the capacity of the Highway Fund to support other transportation programs.

• Ending the State Police function of fingerprinting school teachers for the purpose of providing criminal background checks (with some discussion of shifting that obligation onto local police departments), saving the state $370,000 a year.

• Recovering a one-time $6 million by auditing six year’s worth of school renovation projects financed through the School Revolving Renovation Fund.

• Changing the reimbursement rate under the Business Equipment Tax Reimbursement program (BETR). Currently, companies get 100% reimbursement for the personal property taxes they pay on qualifying property. Under this proposal, the reimbursement rate would be reduced to 75%, saving the state $9 million a year.

The oft-repeated theme that is running throughout the Appropriation Committee’s review and discussion of the list of state and local government cuts is “share the pain”. The expectation that is being expressed by a least some of the Committee members is that in order to balance the state budget, all state agencies and all programs that are supported in any way by state government should be expected to take a cut in order to balance the state’s budget. The only two exceptions, at least at this stage of the fast-track discussions, are General Purpose Aid to Education and state debt service.

Under the “share the pain” philosophy, the proposed cuts to state programs that support local government represent in value 15% of the entire cut-list, or roughly $45 million over the biennium.

As the now-repealed text of Question 1A fully recognized, you don’t have to cut General Purpose Aid to Education to get to the same result…increased upward pressure on property taxes. Cuts to revenue sharing, Tree Growth reimbursement, and pushing additional required costs onto school budgets all achieve the same end.

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TAX REFORM (cont'd)

package. Many of the recommendations have long been supported by municipal leaders as a way to modernize the tax system, improve its year-to-year stability, and provide greater balance among the state's three major taxes.

The recommendations in the package include:

• Repealing a dozen sales tax exemptions, including the exemptions currently provided to private schools and colleges, nonprofit organizations, and newspapers.

• Re-imposing the sales tax on "snack" food items that was enacted in 1991 and repealed in 1998.

• Expanding the sales tax to a broad range of services, the retail consumption of which has never been subject to the sales tax. Those services include:

✓ Amusement and recreation services (sports, recreation, and entertainment events which involve purchasing a ticket or paying a price to hire the entertainment service);

✓ Personal services (e.g., hair cuts, manicure, tattoo and body piercing, massage therapy, tanning salons and exercise centers, dance instruction, driving instruction, dating and escort services, flower and balloon delivery services, pet grooming and kennel services, etc.);

✓ Personal property services (e.g., property cleaning and repair services, moving, rental and maintenance services, recreational boat mooring services, appliance/musical instrument/firearm repair services, etc.);

✓ Home services (e.g., painting, papering, interior decorating, swimming pool installation, locksmith services, pest extermination services, etc.);

✓ Contracted services (e.g., building security services, commercial building management and repair services, garbage collection services, etc.);

✓ Lawn and landscaping services, taxi and limousine services, courier services, telephone directory advertising services, and safe deposit box rentals.

• Increasing the meals and lodging sales tax from 7% to 8%.

• Increasing the sales tax rate on short term auto rentals from 10% to 15%.

• Increasing the excise tax on beer and wine.

• Enacting an excise tax (at the distributor level) on soft drinks at the rate of 42 cents per gallon.

• Expanding the Real Estate Transfer Tax to create an upwardly sliding scale depending on the value of the real estate being sold.

• Increasing the financial institution franchise tax on banks and other financial institutions from 1% to 2%.

Tort Liability In Emergency Situations

LD 936 would remove tort immunity for public safety employees and their municipal employers whenever a public safety officer is in a motor vehicle accident while responding to an emergency. The bill had two very close votes in the House of Representatives. The first vote preliminarily passed the bill by a 75-74 margin. The second House vote was to substitute the bill's negligence standard with a "higher" recklessness standard. It failed by a 69-70 margin.

The Senate decided to send the bill back to the Judiciary Committee to review the bill further; in particular, to explore the issue of which legal standard should be used.

Note: Last week's *Bulletin* article on this issue may have provided some confusion as to the personal liability of the public safety employee. The original bill preserved immunity status for the employee such that the officer could not be sued at all. The bill as amended removes immunity for the employee and the employee may be a named defendant. However, the bill as amended does not remove the obligation of the municipal employer to defend and indemnify the employee as long as the officer was acting within the "scope of his employment." Also, the bill does not adjust the personal liability cap of $10,000. MMA apologizes for any confusion.