Legislative BULLETIN

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AG Confirms Palesky's Unconstitutionality, Tax Committee Prepares Questions for Law Court

On Wednesday, Maine Attorney General Steve Rowe outlined to the Taxation Committee the deep constitutional flaws of the property tax cap initiative sponsored by Carol Palesky. The Attorney General made his presentation during the second Committee work session on the initiative, which is now before the Legislature as LD 1893, *An Act To Impose Limits on Real and Personal Property Taxes*.

The Attorney General made it very clear that the opinions of his office were strictly advisory and reflected only the best judgment of his staff anticipating how the Maine courts would rule if the initiative is adopted by the voters when it appears on the ballot later this year, either on June 8th or November 2nd. On the basis of the Attorney General's opinions, the Taxation Committee is now preparing the list of questions it would like to see sent down to the state's Supreme Court. A process is created in Maine's Constitution for either the Governor or the House of Representatives or the State Senate to declare what is called a "solemn occasion". A solemn occasion creates a system whereby questions can be asked directly to the Supreme Court about the constitutionality of pending legislation.

Attorney General Rowe also made it very clear that the purpose of articulating his opinions regarding the constitutionality of LD 1893, and even the purpose of directing those questions to the Supreme Court, are not to frustrate the rights of the electorate to vote on the initiated legislation. No matter what the Attorney General's opinion or the opinion of the Supreme Court justices may be, Maine law is clear that the entire initiative will be presented to the voters on election day. What these preliminary opinions do provide, however, is information to the voters about the quality of the legislation that will be presented to them, and the likelihood that major elements of the initiative will be found unconstitutional and, therefore, invalid.

There are several unconstitutional elements to the Palesky initiative, according to the Attorney General. The principal conflict is the provision of the bill that would roll-back the assessed value of all properties in Maine to their 1996 level, allowing for some interim adjustments to those values and capping any future increases to those values at 2% per year unless the property is sold to someone outside the family. That entire valuation scheme directly conflicts with the provision in Maine's Constitution that requires all taxes on real and personal property in Maine to be "apportioned and assessed equally according to the just value thereof." The term "just value" has been repeatedly interpreted over the years to mean "market value" by Maine's Supreme Court.

An additional observation was offered by the Attorney General that has not been articulated up until now by legal experts. That new observation is the possibility that the Maine courts

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Palesky Info on Website

Within the next couple of days, MMA will be opening a "Palesky Proposal" folder on its website to provide all the information we have assembled on the 1% tax cap initiative that will be placed on the ballot either on June 8th primary election or November 2 general election this year. Among the documents and analytical material that will be available, you will be able to find:

- The printed initiative (LD 1893)
- MMA's town-by-town fiscal impact analysis of the initiative (as written)
- MMA's town-by-town fiscal impact analysis of the initiative (assuming the unconstitutionality of the "valuation roll-back" system)
- A worksheet to more precisely calculate local impacts
- Recommended Action Steps
- Frequently Asked Questions
- Talking points
- Articles on the subject from MMA's *Legislative Bulletin*
- Editorials from the Maine Newspapers
- Written Legal Opinions on its Constitutionality

MMA will be adding information to the website on the Palesky proposal as it becomes available.

TV Recycling Program Aired

A bill that would establish a recycling program for cathode ray tubes (CRTs) was heard this week by the Legislature's Natural Resources Committee. The legislation, LD 1892, was submitted by the Department of Environmental Protection following several stakeholder meetings this year.

Last session, the Legislature enacted a disposal ban on CRTs, which are most commonly found in televisions and computer monitors. However, there is no statewide plan as to how to handle the products once the ban goes into effect – January, 1, 2006. This bill is that plan.

LD 1892 essentially has three components. First, towns are obligated to ensure that all TVs and computer monitors are sent to "consolidation facilities." While those facilities are not well defined in the bill, it is assumed that there are around 20 of them in the state now. The bill also prohibits towns for collecting fees (often called "end of life fees") to cover the town's shipping costs.

The bill has a provision that would allow towns to apply to the state for reimbursement of the town's shipping costs that exceed their normal municipal solid waste costs. However, the source of that revenue expires in a few years.

Second, at the point of consolidation, manufacturers are responsible for taking back their own products. They are also jointly responsible for the costs of recycling so-called orphan products – the products of manufacturers who no longer exist (e.g. Wang computers).

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

Lastly, for TVs only, there is a six year ramp-up to manufacturer responsibility. During that period 6 year period, the state would impose an advanced recovery fee ("ARF") on the sale of televisions, to cover the recycling costs.

MMA's Legislative Policy Committee discussed the issue and made clear that whatever the state does, it should not disrupt any existing municipal recycling programs or obligate towns to participate.

The Legislature's Office of Fiscal and Program Review deemed the bill to be a mandate due to the new obligation on towns to send the CRTs to consolidation facilities. Therefore, it appears that the Committee is going to be forced to make the program optional for towns – which happens to satisfy the LPC's second concern. The first concern also appears to have been heard, and end of life fees will likely not be prohibited by the Committee.

However, the bill is far from passage. Due to retailer opposition (to charging an ARF since tax-free and ARF-free New Hampshire is so close) and mixed messages from manufacturers (some like ARFs, others don't; some like take-back programs, others don't) the committee seems stalled.

A sub-group met and formulated a possible alternative. This alternative relies not on manufacturer take-back programs but on a higher ARF. In the proposed alternative, towns that choose to participate will contract with consolidators to have the products recycled. These costs can be high ($24 per unit at Tri-Community landfill for the largest TVs). The state will collect the ARF and either directly reimburse towns, or indirectly reduce those costs by subsidizing the consolidators.

The alternative plan presents too many clear obligations with too many vague assurances of reimbursement. A variation on the plan is more attractive. The alternative would merely obligate participating towns to ship the CRTs to consolidators, consistent with the original bill. The state would then directly reimburse the consolidators for the costs of recycling from the point of consolidation forward. Thus, any problems will be worked out between the state and the consolidators, with the towns left-out of it.

In either version, if a manufacturer establishes a take-back program, its products would be exempted from the ARF.

Always hanging out there is a fourth alternative, which has not yet been proposed, to impose immediate, across the board, manufacturer responsibility plan. This would be similar to the original bill, but without any delay (and temporary ARF) for TVs.

Since the disposal ban is looming, doing nothing is the least attractive option.

Stay tuned.

PALESKY (cont'd)

would ultimately determine, after striking out the clearly unconstitutional elements of the initiated measure, that the elements of the initiative that remained should also be struck down because the unconstitutional elements are so integral to the entire tax cap scheme, that the few remaining parts could not be sustained. This legal background of this possibility is rooted in a section of Maine law that governs the process of "severing" unconstitutional language from a piece of legislation. According to that statute, and some court cases that reference that statute, the process of severing unconstitutional language from a bill is not quite so easy as simple dissection. The courts also have a duty to examine what remains after the operation, and it is apparently possible for the remainder to fall, even if it is not unconstitutional in itself, if that remainder turns out to be gross distortion of the overall scheme as adopted.

The Taxation Committee responded to the presentation of the Attorney General by requesting the preparation of his analysis in writing and beginning the process of developing the series of questions that should be directed to the Law Court under the "solemn occasion" process.

Work sessions on LD 1893 will be continued next week.

School Consolidation Debated

On Wednesday of this week, the *ad hoc* Committee on Regionalization and Community Cooperation held a public hearing on LD 1921, *An Act to Encourage Voluntary Efficiency in Maine's School Systems and Related Costs Savings*.

The ostensible purpose of the hearing was to obtain comments from the public on the Governor's plan to create efficient school administrative units. Unfortunately for the people who traveled significant distances and left their homes and jobs to attend the hearing, the first few hours of the meeting were given over to the presentation of the Administration, which was represented by the state economist, Laurie Lachance, commissioner of the Department of Education, Susan Gendron, and the Maine Education Policy Research Institute's David Silvernail, and an endless number of questions from the Committee. At times it appeared as though the Committee was blending the public hearing and work session functions.

Also, only the members of the public that had the opportunity to testify before 5 p.m. had the benefit of presenting information to most of the legislators on the Committee. By the time much of the public testimony was presented, only four of the fifteen members of the Committee were in attendance.

As it turned out, the testimony offered by the proponents, opponents and those "neither for nor against" the bill, provided valuable information on the benefits, problems and solutions for addressing issues found in LD 1921.

As submitted, LD 1921 creates three models for encouraging efficiencies in the delivery of school services. Each model has a system of financial incentives, cost savings goals and penalties should the school unit take more than three years to meets its established efficiency goals. The financial incentives include increases in GPA funding and state payment of a percentage of the school unit's non-state supported school construction debt over a five-year period. The cost savings goals vary depending on whether the school unit qualifies: (1) as an "efficient" school unit; (2) enters into a "regional cooperative" with five other school administrative units for the purpose of reducing administrative costs and investing savings into instructional programs; or (3) establishes a new consolidated regional school district with one or more contiguous school units for the purpose of creating a single school governed by a single board. Generally, the units are deemed efficient if their cost increases from year-to-year are below the increase in the Consumer Price Index (CPI). If the schools participating in any one of the models fail to meet the efficiency goals within a three-year period, the unit no longer qualifies for incentive funds and can be required to pay back up to 50% of the "incentive" funds previously received. (For detailed information on efficiency programs, incentives and penalties in LD 1921, please refer to the description provided in the March 12, 2004 edition of the *Legislative Bulletin*.)

The proponents of the bill included Jack McKee of Kingfield and Richard Tory representing the Maine School Management Association (MSMA). Although McKee alluded to the fact that his own school district might not be able to participate in the efficiency models provided in LD 1921, he believes that bill is a good first step toward a better future.

MSMA supported the concept of regionalization and efforts to improve the efficiencies of the delivery of school services, but raised concerns with the lack of flexibility in the bill. MSMA questioned why it is necessary that five school administrative units participate in a regional cooperative, when a regional cooperative of three units, for example, might be able to achieve comparable savings. The Association also believes that requiring a school unit to return state incentives funds if targeted savings are not achieved may create enough uncertainty to discourage multiple units from participating in the efficiency programs.

Several groups and individuals testified in opposition to the bill.

Keith Cook, representing the Maine Small High Schools Coalition, warned the Committee of the unexpected and unintended consequences the consolidation of small school units into larger school districts could have on any cost savings. While Mr. Cook believes that in some cases the consolidation of school units can generate efficiencies, those savings come at another type of cost. According to the research he has been studying, larger schools have higher drop out rates, reduced participation in extracurricular programs and reduced enrollments in post secondary educational programs, which tend to lead to higher unemployment rates, reduced salaries, and greater reliance on Medicaid, all of which are costly to society. Mr. Cook believes that these types of cost, at times, outweigh the benefits of the consolidation.

Edmund Hart, chair of the Lincolnville School Committee, focused his opposition to the bill on the erosion of local control and the GPA penalty. Mr. Hart believes that as schools and school boards get larger, the people in the community will have less control over the operation and budgets of the school. Without a sense of ownership, Mr. Hart is concerned that people will care less and give up all decision-making authority to a district board. Hart is also concerned that by utilizing existing GPA revenues to fund the incentives created in LD 1921, those entities that can participate in the state-prescribed efficiency models

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LD 1923: Municipal Spending Caps, Personal Property/Homestead Repeal

MMA apologizes to the several municipal officials who asked if it would make any difference if they attended the public hearing Thursday on Governor Baldacci's LD 1923, a "tax relief" and "spending control" bill that would repeal the tax on personal property, repeal the homestead property tax exemption, and impose a spending cap on municipal and county government.

The apology is because our response was "Yes. It would make a difference if you took the time to drive down to Augusta to speak your mind." Unfortunately, the 1:00 p.m. hearing was structured to give so much deference first to the Administration's testimony, and then to give so much time to the paid lobbyists and industrial proponents of the personal property tax repeal, that most of the municipal folks had to leave by 6:00 p.m., before having a chance to speak, in order to get back to their towns several hours away and their various local meetings.

We will probably continue to recommend that local officials try to attend these public hearings, but we can certainly understand after Thursday why they would have second thoughts.

Almost all the testimony provided on LD 1923 focused on the first part of the bill that would repeal the personal property tax in a "going forward" manner; that is, almost all commercial personal property first installed in Maine from now on would be exempt from taxation. As a general rule, personal property already placed in Maine would remain taxable until it is removed or replaced. The exception to the rule would be existing personal property that is enrolled in the state's Business Equipment Tax Reimbursement (BETR) program. That property would also become exempt from taxation when its 12-year eligibility for the BETR tax reimbursement from the state expires, beginning in FY 08. LD 1924 provides for the 50% reimbursement to the municipalities for their lost tax revenue required by the state's constitution, which obviously leaves those municipalities short the other 50%.

In essence, this proposal doesn't change the business' exposure to property taxes because BETR already reimburses their taxes on personal property. Instead, the proposal shifts the burden of paying for the effective exemption created by BETR from the state taxpayers to the municipal residential and small business taxpayers who will not be fortunate enough to enjoy this new tax exemption.

The proponents of repealing the tax on personal property fell into two camps. The paper mills in Madawaska, Baileyville, Bucksport and Jay; the Maine Pulp and Paper Association; the union papermakers in Rumford; Pratt Whitney in North Berwick; and Unum in Portland all testified in simple support of LD 1924. These proponents generally made no reference to, or held an apparent concern for, the impact the repeal on the non-industrial property taxpayers who will have to carry the costs of their exemption. Given that LD 1923 does not really change anything for their businesses with respect to property taxes (because it merely restructures what amounts to their existing exemption), the most often-stated reason for their support of the measure was that it would bring "stability" to the tax exemption…they would not have to respond to legislation each year that might seek to amend or weaken the BETR program.

The Maine State Chamber of Commerce, John Melrose representing the Maine Service Center Coalition, South Portland City Manager Jeff Jordan and the Maine County Commissioners' Association also testified in support of LD 1923, but not exactly as the bill was printed. Calling the elements of the bill the "seeds of reform", their testimony was that repealing the personal property tax and imposing some sort of spending cap on government needed several other elements to actually work in order to successfully mitigate the negative financial impacts on most municipalities. The additional elements that these supporters of LD 1923 suggested included: (1) a rational school funding proposal that puts the state on track to provide 55% of basic K-12 education; (2) removing the county assessment from the municipalities; and (3) a conversion of all municipal revenue sharing from the standard formula to the modified "Revenue Sharing II" formula.

The towns of Madison, Skowhegan, East Millinocket, and Baileyville testified in straight opposition to LD 1923, along with MMA.

The testimony of the industrial municipalities was provided most comprehensively by Bill Van Tuinen, an assessor who provides his company's services to several mill towns.

Van Tuinen first reoriented some of the proponent's testimony that had been expressed hour-after-hour during the long afternoon. For example, many proponents of LD 1923, from DECD Commissioner Jack Cashman through much of the paper mill lobby, suggested that the repeal of personal property taxation with 50% reimbursement required by the constitution would not really hurt the affected municipalities because the towns, allegedly, were granting "credit enhancement" Tax Increment Financing arrangements (TIF) that limited municipal revenue just as severely as would the exemption. Van Tuinen pointed out that these TIF agreements, as opposed to the proposed exemption, were: (1) limited in time rather than permanent, as would be the exemption; (2) carefully developed by the towns to create thoughtful, mutually constructive benefits; (3) expressly adopted by the towns' legislative bodies on a case-by-case basis; and (4) unlike the proposed going-forward exemption, designed to cover only the incrementally-created new value associated with the installment of a new capital investment, a calculation that recognizes the value of taxable property that is lost or replaced when major installations at the paper mills are put into place.

Van Tuinen also detailed the laun-

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LD 1923 (cont'd)

dry list of technical changes to the law that would be necessary in order to implement the repeal of the property tax without severely impacting the municipalities heavy reliance on personal property. Some of those technical changes included expediting the state valuation process so the affected towns would not chronically appear on paper to have more value than they actually had, moving up the reimbursement deadlines proposed in LD 1923, reducing the scope of exemptions to focus the benefit on just the manufacturing sector (rather than, for example, the big box retailers or law office computers), and abandoning the BETR "reachback" exemption, which exacerbates the negative impact on municipalities.

MMA's testimony was in concert with the industrial municipalities with respect to the personal property tax repeal, but expanded the focus of the negative municipal consequences to the indirectly affected municipalities. Reducing the value of the industrial and service center communities hydraulically increases the county tax assessment to all other municipalities and reduces their eligibility for school funding. Nothing in the printed version of LD 1923 is designed to offset those impacts. Personal property, like real estate, generates a need to provide public services to protect that property (fire and police protection, road and traffic maintenance, an educated workforce, etc.), and some level of taxes on that property generates an appropriate "contribution to the public charge", an old-fashioned term that is not much invoked these days.

All the testimony on the proposed personal property tax repeal diminished the focus on the rest of the bill. MMA expressed: (1) direct opposition to the proposed repeal of the homestead exemption, which would increase the property tax bill for the average homesteader by 3.5%; and (2) opposition to the state-imposed caps on municipal appropriations.

There appears to be some sort of obsession within the State House regarding the imposition of spending caps on one or more level of government. MMA seems to be the only voice that has not lost faith with the democratic process as it currently exists. The issue goes to faith in the intelligence of the voters and their duty to participate either in a direct (town meeting) or representative form of democracy; that is, to approve the spending decisions they support and to reject the spending decisions they do not support…to elect the representatives that will support their budget priorities and refrain from electing the representatives that do not.

Beyond that, appropriation (or spending) caps like the one the Governor is proposing in LD 1923 to be imposed on local and county government (but not the schools until 2010) have numerous unintended negative impacts on the reasonable conduct of municipalities. The practice effectively prohibits the practice of saving up for capital expenditures, and severely constrains the implementation of revenue-neutral or revenue-producing fee-for-service programs (ambulance operation, solid waste management systems, etc.) or certain types of grants or "other source revenue" programs (such as housing rehabilitation or water quality testing) that require initial local appropriations.

And beyond all of that, the biggest problem with LD 1923 that almost escaped notice entirely is that its enactment would result in a very significant increase to the actual property tax burden next year – to the tune of $50 million – and that is even before the negative impacts of the personal property tax repeal kick in.

Repealing the homestead exemption and reinvesting only two-thirds of that state "savings" into the Circuit Breaker program nets out a $10 million hit to residential property taxpayers. Increasing state aid to education by only one-third of the actual (conservatively estimated) increase will add $40 million to the property tax load. A $50 million increase to the property tax burden would be a remarkably poor way to respond to the deep-structure property tax problem currently facing the state.

No work session on LD 1924 has been scheduled.

SCHOOL (cont'd)

will received additional revenues, while those units that cannot and are already providing services efficiently will lose some of the GPA funds currently used for the everyday operation of schools.

Philip Merrill, Appleton School Board, testified that he was troubled by the assumption that the funds spent on K-12 education are misspent. Merrill believes that in order to attract more people to Maine, the state must focus on its strong suits, one of which is the quality of the education provided. Merrill also warned the Committee to steer clear of the predetermined conclusion that larger schools are more efficient and instead urged the Committee to put an end to all the rhetoric and take the time necessary to test the theory that bigger school districts will automatically save money.

Brewer business owner, Brad Saucier, also weighed in on the issue of consolidation and expressed his frustration with the Governor's and the Department of Education's resistance to determine how the creation of larger schools will impact economic development in rural areas of Maine. Mr. Saucier is concerned that closing smaller schools will have a subsequent effect on the businesses community. If teachers, administrators, and support staff are no longer employed in the community, the sales of gas, lunches and groceries will diminish, and over time the businesses dependent on the school staff will also close.

The Maine Education Association (MEA) and the Maine Municipal Association (MMA) provided testimony "neither for nor against" LD 1921. While the memberships of both groups support the cost-saving goals some types of regionalization can offer, they believe that there are problems with the bill as written.

The MEA testimony focused on the unanswered questions regarding teacher salaries and benefits. If schools are to consolidate there ex-

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Freedom of Access Update

The Judiciary Committee has made several "compromise" recommendations regarding some of the freedom of access issues that were raised by the report of the *Committee to Study Compliance with Maine's Freedom of Access Laws*. For background, please refer to previous articles on the subject in the January 30th, February 20th and February 27th editions of the *Bulletin.*

Three of the recommendations that were objected to by MMA dealt with copying issues. The Committee originally recommended the following: (1) that towns not be allowed to charge for the first two hours of staff time that it took to respond to a public records request; (2) that any photocopying fees charged by towns be capped at 20 cents per page; and (3) that towns may not request advanced payment for charges unless the total bill would exceed $250.

First, there is very little evidence that the fees currently being charged at the local level are unreasonable, and the local charges generally do not come close to the charges for documents that are levied by the state courts and the county registries, which would be exempted from the caps. Second, towns should be able to establish fees for individualized research services if they so choose. Lastly, there was zero evidence that there is any widespread requirement of advanced payments, or that where they are in place that they are being implemented inappropriately.

The Committee decided to split the difference and recommended that: (1) towns not be allowed to charge for the first hour of research service (rather than the first two hours); (2) that photocopying fees be limited to "reasonable fees", without a cents-per-page standard; and (3) that advanced payments may only be charged if the total bill is $125. Therefore, a full day of research at $10 per hour, including the first hour free is $60. Since most photocopying fees are in the 50 cent per page range, a town may not request advanced payment if the public record request requires a full day of research ($60) and 130 pages of copies. If a person makes a big request that approaches that level of effort, and then decides not to pick up the collected materials, the town eats the cost.

The other pertinent recommendation that will be recommended by the Committee concerns when a town body adjourns into "executive session." Executive session, as town officials know, is when a board that is subject to the public meeting requirements is allowed to meet outside of the public realm to handle executive, rather than public, duties.

The final and unanimous recommendation of the Judiciary Committee will obligate town officials to recite out loud the statutory citation that permits the particular executive sessions. The correct statutory citation is Title1 section 405, subsection 4. Although current law requires that "A motion to go into executive session shall indicate the precise nature of the business of the executive session.", apparently that is not enough. Under this recommendation, town officials will be required to recite the statutory authority.

The bill that will carry these changes to Maine's Freedom of Access law is presently being prepared by legislative staff, and will go to the full Legislature for adoption within the next couple of weeks.

SCHOOL (cont'd)

ists no state prescribed method for determining who gets the available jobs or how benefits and salaries and are provided. In order for MEA to become more comfortable with the efforts of LD 1921, teacher equity issues must be addressed.

MMA focused on three concerns with the bill. 1) Lack of flexibility, 2) the rigid design of the incentive; and 3) the school subsidy impact. Municipal officials believe that in order for regionalization efforts to be successful, the system must allow for local energy, creativity and ingenuity. By assuming that efficiencies in school administrative units can be achieved only in one of three ways, LD 1921 stifles local involvement in the creation and ownership of the efficiency model.

Second, municipal officials believe the program is designed to fail. Creating a system that threatens to revoke the incentive funds provided to a group of schools participating in one of the models might discourage any participation in the program. In order for this program to be successful it should allow for mistakes and unexpected circumstances that might have an impact on savings to occur without fear of losing all incentive funding.

Finally, municipal officials are concerned about the use of GPA as the funding source for the incentives offered in LD 1921. At a time when property taxpayer burden is at an all time high, municipalities can ill afford to lose any of the state revenue used to reduced taxpayer burden. If the state is interested in funding the incentives, it should look to another revenue source or significantly increase its share of the cost of K-12 education, before dedicating any of those revenues for purposes other than the provision of existing education services and programs.

Although the work session on LD 1921 was scheduled for this Thursday, a lack of a Committee quorum caused the session to be cancelled. The work session has been rescheduled for Monday, March 22nd at 1:30 p.m.

For your information, the Committee will be holding a public hearing next Tuesday, March 23rd on its own regionalization bill, LD 1930, *An Act to Promote Intergovernmental Cooperation, Cost Savings and Efficiencies*. Please check the Legislative Hearing Schedule and the Hopper in this edition of the *Legislative Bulletin* to get more details about the time and place of the hearings and substance of the Committee's proposal.

IN THE HOPPER

Regionalization & Community Cooperation

LD 1930 – An Act To Promote Intergovernmental Cooperation, Cost Savings and Efficiencies. (Sponsored by Sen. Damon of Hancock Cty.)

This bill is a "concept draft" that would do the following:

1. Require that each of the state, county and municipal governments pay for those services that it requires be provided. This does not include Federal Government mandates and mandates related to education.

2. Establish the Intergovernmental Advisory Group to study ways to reduce duplication and improve efficiency among all 3 levels of government in the State as well as within each level of government; to promote communication, cooperation and efficient delivery of services; to provide state resources for guidance, technical support and incentives to regionalize; and to work with local and regional entities to design and implement pilot projects that result in cost savings and improved services through regionalization or other efficiency efforts.

The advisory group would have the following representation:

A. Five members from State Government, 3 of whom must be commissioners and 2 of whom must be legislators not of the same political party;

B. Five members who must be officials representing regional governments, 3 of whom must be county officials and 2 of whom must represent regional planning agencies, councils of government or other regional bodies; and

C. Five members who must be officers representing municipal governments, 3 of whom must be municipal officials and 2 of whom must represent school districts or other special-purpose districts that represent 2 or more municipalities.

3. Encourage the adoption of a county charter by streamlining the procedure for initiating a charter commission and removing all statutory limits on charter powers. The changes to accomplish this include the following:

A. Removing limits on charter powers and providing that a county that adopts a charter may have home rule. This provision would not change the constitutional requirements regarding the election of county sheriffs and judges and registers of probate. It also would not exempt counties from state mandates; and

B. Removing the requirement that county residents vote to initiate a charter commission and allowing a charter commission to be initiated either by the county commissioners or a citizens' petition. Citizens would still be required to vote on the final adoption of the charter.

4. Increase the real estate transfer tax from $2.20 per $1,000 of property value per party to $3.00 per $1,000 of property value per party. All additional funds raised through the real estate transfer tax as a result of this increase would be deposited into a dedicated fund to provide grants to promote regional efforts. This fund would be administered by the Intergovernmental Advisory Group, as established in this bill. Groups of municipalities, councils of government and regional planning commissions may apply for grants. A county may also apply for a grant if it adopts a charter and if it submits a plan for regional cooperation.

5. Create tax districts for multiple towns to join together for the purpose of assessing and collecting taxes as a single entity. A county may also serve as a tax district for this purpose. Residents of the towns or the county must vote to decide on whether to create a taxing district. The Intergovernmental Advisory Group may provide grants to assist in the development of a proposed taxing district.

6. Transfer a portion of the Highway Fund that funds State Police patrol to towns that do not have local police. Those towns would then contract with the county for sheriff patrol services. The portion of the Highway Fund to be transferred for this purpose would be based on the following funding formula for each county sheriff's patrol budget: Fifty percent of the budget must be collected from the residents that receive the benefit and 50% must be collected through the Highway Fund.

7. Encourage counties to work together on regional projects, such as communications centers and regional jails, by amending or clarifying statute to give all political subdivisions of the State broad authority to work together.

8. Tie the award of transportation funds to municipalities to the development of coherent regional land use policies.

9. Remove statutory references to:

A. Salaries of county officials;

B. Directives on how often county boards and commissions hold hearings; and

C. Involvement of the legislative delegation in the county budget process.

10. Create 4 pilot projects to:

A. Create municipal unions to allow multiple towns to consolidate their administrative functions into a single unit while allowing each town to retain its identity and form of governance. This option would be voluntary;

B. Work with state agencies to permit towns to file joint reports and audits when they are working together administratively;

C. Promote the use of councils of governments and promote the involvement of councils of governments and regional planning commissions with counties; and

D. Assist the "Beginning with Habitat" program to make more effective use of wildlife information across town boundaries through a regional habitat planning pilot project.

LEGISLATIVE HEARINGS

Tuesday, March 23

Joint Select Committee on Regionalization and Community Cooperation
Room 216, Cross State Office Building, 1:00 p.m.
Tel: 287-1330

LD 1930 – An Act To Promote Intergovernmental Cooperation, Cost Savings and Efficiencies. (Sponsored by Sen. Damon of Hancock Cty.)

Transportation
Room 126, State House, 2:00 p.m.
Tel: 287-4148

LD 1934 – An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005. (Emergency) (Governor's Bill) (Sponsored by Sen. Hatch of Somerset Cty.)