

Legislative **BULLETIN**

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Legislature Scheduled to Recess

State Budget, Tax Reform, Bond Proposals Wait for Resolution

As this edition of the *Bulletin* goes to press, it appears that the Legislature is scheduled to work through Friday this week, recess over school vacation week, and then reconvene on Wednesday, April 28th for a two-day session to wrap up its business for 2004.

Unless remarkable progress can be made within the next legislative day, some very weighty issues remain unresolved for the wrap-up session of the Legislature on April 28-29.

- The supplemental state budget for FY 05
- The Legislature's tax reform or tax relief package
- Bonds or bondlessness
- Scheduling the Palesky initiative
- Vetoed bills, bills on the Appropriations table, and assorted legislative loose ends, such as the school regionalization bill (LD 1921).

Horse before the cart. The Legislature was working through all the bills before this week with the understanding that it would wrap-up all its business this weekend. Governor Baldacci made it clear that he wanted the Legislature to first adopt the supplemental state budget, which finally made its way out the Appropriations Committee on Tuesday this week with a party-line vote of support from the Democrats. After the Budget was adopted, presumably, the "tax reform" or tax relief package would be developed and enacted.

Around mid-week, however, some caucuses in the State House began to

express an interest in reversing the order of events, and putting the tax relief package as the first order of business and adopting the budget only after that task had been accomplished.

That development served to intensify the development of the tax relief package. As of this writing, the agreed-upon tax plan has not been entirely developed, at least to the extent it is publicly described. The generally recognized moving parts of the tax relief package include:

- The education funding ramp captured by LD 1924 (see related article)
- A ramp-consistent increase in state support for school funding next year (FY 05) of \$40 million more than current year state support, which was \$729.6 million.
- An increase in the "Circuit

Breaker" property tax and rent rebate program

- An increase or potential conversion of the Homestead property tax exemption.

- Possible spending cap systems on county and local government that roughly parallel the so-called "spending discipline" system that was enacted in 2003 by the Legislature with respect to the state budget.

Supplemental Budget. The state supplemental budget (LD 1919) that is now before the Legislature is designed to fill a \$160 million hole in the FY 05 budget, created largely by reduced federal support and increased utilization of the state's Medicaid program. There is a very long list of components to the supplemental budget that include restrictions on Medicaid services, yet another sweeping of all state accounts for dribs-and-drabs of available revenue, many fee increases, interstate sales of buildings and bridges that essentially move money into the state's General Fund from some other account...the list goes on.

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Please Stay Tuned for Action Alerts

The Legislature is going to try to finish almost all its business today, going into the weekend. It is then scheduled to recess for school vacation week and come back on April 28-29 to tie up the loose ends.

The next edition of the Legislative Bulletin will not be published until the Legislature finally adjourns for good, presumably around the 29th of April.

Between now and then, we will attempt to keep municipal officials informed of the proposals and counter proposals on tax reform, updates on the scheduling of the Palesky tax cap vote, the bond negotiations, and other matters of particular municipal interest through updates and action alerts relayed to municipalities by mail, FAX and e-mail.

If you are not receiving our e-mail communications currently and would like to make sure you will receive this updating correspondence, please contact MMA's Laura Veilleux at 1-800-452-8786 or lveilleux@memun.org.

RECESS (cont'd)

There are two direct municipal impacts of significance:

GPA appropriation. The supplemental budget would increase the GPA appropriation for FY 05 by \$10 million over the FY 04 appropriation, bringing GPA to \$740 million. For context purposes, a conservative 3.5% increase in total educational spending between FY 04 and FY 05 will yield a \$60 million increase in total K-12 costs. If the state kicks-in an additional \$10 million, the property tax increase will be approximately \$50 million.

Revenue Sharing change. The supplemental budget would also redesign the \$24 million "Circuit Breaker" property tax and rent rebate program so that it would now be treated, at least technically, as an income tax credit. This change would have the effect of changing the source of state revenue from which the Circuit Breaker benefits are paid from a \$24 million state appropriation to the unappropriated income tax withholding revenue stream. The Circuit Breaker benefits would be rebated from a state revenue source before it gets recognized in the state treasury. Because of the change, there would be \$24 million less in state income tax revenue, and therefore \$1.26 million less in state revenue sharing. That reduction in Revenue Sharing will have the effect of cutting by two-thirds the amount of Revenue Sharing that was otherwise projected to be distributed under the "Revenue Sharing II" formula.

Palesky Timing. It is still not known if the Legislature will schedule the Palesky initiative for the June 8

primary election or the November 2 general election. The decision is up to the Legislature. If a majority of legislators in House and Senate want to schedule the Palesky initiative in June, the June election date will prevail. Otherwise, the November 2 election is the fixed date of election.

For weeks, legislators in leadership have been insisting that the Palesky tax cap should be scheduled in June, for reasons that made no sense to municipal officials. From the municipal perspective, the electorate needs more time than afforded by a rushed election in June to be provided the information about the deep and disruptive impacts of the Palesky proposal. Even now, the Legislature is waiting for an advisory opinion from the justices of the state's Supreme Court regarding which elements and how much of the initiative is unconstitutional.

The indications in recent days is that the Legislature is shifting away from a June 8th scheduling of the Palesky vote. In order to accommodate the printing of ballot deadline for absentee ballot availability, time is running very short. Although some legislators are still urging a June vote, a November scheduling is beginning to prevail.

Bonds or bondlessness. There are four major bond proposals that make up the total proposed borrowing package. A \$65 million bond for the Land for Maine's Future program; a \$18.25 million transportation borrowing proposal; a \$16.6 million bond for wastewater treatment and other environmental purposes; and a \$20 million economic development bond.

The bond negotiations are largely worked out between the two parties and the Governor's Office, and it is unclear where those negotiations stand at the moment. Bond proposals don't get out of the Legislature and onto the statewide ballot unless they garner at least a two-thirds support of both the House and the Senate. It is unclear how much borrowing (and for what purposes) will obtain that level of support in the current legislative environment, which is characterized by sharp divisions between the two parties. Municipal officials with a strong interest in the capital projects supported by these

bonds are urged to contact their legislators as soon as possible to get the best information about the status of these several bond proposals.

SCHOOL (cont'd)

the bill shared with any of the stakeholders before it was written into the draft legislation, and without more analysis, it is difficult to judge its impacts in the real world. As Senator Brennan pointed out, the benchmark levels may be very difficult to meet for some if not most school systems when other educational policy decisions currently being made by the Legislature are taken into account. For example, the Baldacci Administration is pushing the multi-million dollar local purchase of laptop computers for the high-school grades, which will be an entirely separate education funding obligation on municipalities. There is also legislation (LD 1921) that would set-aside normal GPA distributions to fund "regionalization incentives", which could have the effect of limiting GPA distribution to many schools.

In fact, if the "benchmarking" system is fully complied with, according to the Department of Education data that the two committees reviewed prior to endorsing the "ramp down" system, the total state and local cost for K-12 education six years from now, in the year 2010, will be essentially the same as the current state and local cost of K-12 education, in real dollars.

In actual dollars, total conformity with the EPS model will allow average annual increases to K-12 education of just 1.26%, which is a remarkable reduction from the current annual growth of approximately 5%. After adjusting for inflation, total conformity with EPS will allow average annual increases (in real dollars) of just .57%. (see chart on pg. 3)

The public policy is that spending for public education should stay essentially flat over the next six years, after adjusting for inflation.

In any event, the two committees unanimously endorsed the amended version of LD 1924, which indicates it will likely become law with little legislative debate.

Legislative Bulletin

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Committees Give Unanimous Support To Responsible School Funding Plan

LD 1924 is the “Essential Programs and Services” education funding bill that would implement the new school funding allocation and distribution formula, beginning in FY 06.

As proposed by Governor Baldacci, the bill would revive an old promise of the state to pay 55% of the cost of K-12 education, but not until the year 2010. From now until then, the bill would make no particular commitment to school funding.

There has been a great deal of focus since the “1A/1B” debate last fall on constructing a coherent year-by-year school funding ramp to achieve that 55% goal. Several weeks ago, a specially-appointed “Tax Working Group” made up of 10 legislators from all political parties and both the Senate and the House unanimously endorsed a “straight line” school funding ramp that would get the state to the 55% goal by the year 2010 with steady, significant and enforceable school funding commitments every year along the way.

The Taxation and Education Committees have joint jurisdiction over LD 1924, and by the end of last week it looked as though the two committees were going to give their approval to the bill even though it was “rampless”.

The two committees turned that situation around this week by giving unanimous support for LD 1924 with the Working Group compromise school funding ramp fully installed.

As soon as it appeared the Committees were headed in that direction, the lobbyists for the Baldacci Administration asked the committees to insert “ramp down” language into the bill along with the new ramped up state funding “targets”.

The Governor was requesting language in the bill that would not only establish what minimum level of state support for K-12 education would be provided, but also would dictate – either immediately or sometime in the

distant future – what the maximum level of local financial support for the schools would be allowed.

Beyond the “ramp down” soundbite, the specifics of the Governor’s proposal were not initially available for review. At the motion of Senator Mike Brennan (Portland), the two committees responded to the Governor’s “ramp down” request by authorizing the formation of a working group of finance experts to prepare annual reports to the Education Committee and the Taxation Committee that would track both state and local financial contributions to K-12 education in an effort to document the state and local school cost sharing dynamics and, at least from the municipal and school perspective, the integrity of the EPS school funding model over time.

On Thursday this week, the Tax and Education committees were provided the language as drafted by the Baldacci Administration and backed by the chairs of the Taxation and Education Committees. The language drifted away from the earlier motion of Senator Brennan and went back toward the specific “ramp down” language. This language reviewed and ultimately approved by both committees would do the following:

A 6-member “Municipal Budget Analysis” Committee would be established, with representatives from the State Planning Office, Department of Education, Bureau of the Budget,

Maine Revenue Services, Maine Municipal Association and Maine Education Association.

Beginning in FY 07, the Committee would be charged with evaluating the state and local financial commitments and the property tax commitments for K-12 education. The state’s financial commitments would be evaluated to see if the state was fulfilling its ramped-up statutory “targets” to fund public schools. The local property tax commitments to education would be evaluated to see how they conformed to the following “benchmarks”.

The FY 07 property tax commitments for education should be 3.5% less than the FY 06 property tax commitment for education.

The FY 08 property tax commitments for education should be 3.5% less than the FY 07 property tax commitment for education.

The FY 09 property tax commitments for education should be 4.0% less than the FY 08 property tax commitment for education.

The FY 2010 property tax commitments for education should be 4.5% less than the FY 09 property tax commitment for education.

The “Municipal Budget Analysis Committee” would be charged with preparing an annual report containing this information, along with an evaluation of the progress of state and local officials in meeting these benchmarks and an analysis of the relevant factors contributing to the compliance or non-compliance with those benchmarks.

This “ramp down” benchmarking system was never discussed or evaluated in any of the many worksessions on LD 1924, nor was the language of

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	Spending for Education			Average Annual Growth (FY 0-10)	
	FY 04 Actual \$	FY 10 Actual \$	FY 10 Real \$	Actual	Real
Local	998,332,431	836,274,909	804,132,368	(2.71)	(3.24)
State	729,574,321	1,022,113,778	982,828,451	6.68	5.79
Total	1,727,906,752	1,858,388,687	1,786,960,819	1.26	0.57
Note:	"Real" spending values estimated using the average rate of inflation in 2000, based on FY 2000 actual dollars.				
Sources:	Maine Department of Education Bureau of Economic Analysis				

Season Finale for CRTs?

This is hopefully the final installment of the long-running Legislative drama known as LD 1892, *An Act to Protect Public Health and the Environment by Providing for a System of Shared Responsibility for the Safe Collection and Recycling of Electronic Waste* (“AAPPHEPSSRSREW.”). The House and Senate have passed the Natural Resources Committee’s Majority Report, which is a manufacturer “takeback” program. While the takeback program has to be further refined, it should provide some needed assistance to municipalities.

Last session, the Legislature enacted a prohibition on either landfilling or disposal or incineration of household products (computers and TVs) which contain cathode ray tubes (“CRTs”). The disposal ban will become effective on January 1, 2006. CRTs that are generated by business have already been designated “universal waste” and must be recycled.

Many communities currently have their own ban on disposal of CRTs. These communities handle recycling primarily by one of two ways. One way is to simply require residents to pay a drop-off or end of life (EOL) fee at the point of disposal. These fees are often targeted to size and weight of the product. Thus, small computer monitors may cost \$5 while large TVs can be over \$20 to dispose. The other way communities manage recycling is to have one-day events where they col-

lect CRTs and other household hazardous wastes. End of life fees may or may not be charged at these events.

The state disposal ban obligated the Department of Environmental Protection (“DEP”) to recommend to the Legislature a plan for recycling CRTs. This was very important. Since the state was encroaching on area of traditional municipal responsibility – household waste – it recognized its obligation to help craft a state solution.

After several meetings of the DEP, MMA, environmental interests, manufacturers, retailers and the waste/recycling community, it appeared that there were three options available: (1) fund a recycling program by charging an up-front fee on sales of computers and TVs, (2) require the manufacturers to take-back their products and those products of now defunct manufacturers, or (3) some combination of the two. Each of these programs has its flaws, but a recommendation had to be made.

DEP’s recommendation was essentially a manufacturer take-back program. An alternative was proposed in the Natural Resources Committee. The alternative provided for a take-back program that was voluntary for manufacturers; however, there would be an up-front fee imposed on manufacturers that had no take-back program.

There was no strong municipal preference between these two approaches. Although, there was municipal skepti-

cism about the ability of an up-front fee to be turned into a viable recycling program given past attempts of this type in Maine. The two primary municipal objectives in the legislation were to allow municipal flexibility and to pass something that could aid municipalities.

The municipal view on flexibility was very strong. Since so many communities had recycling programs, or alternative disposal options, they wanted to make sure the state did not interfere and disrupt successful programs. In the end, committee members decided to allow municipalities to choose whether or not to participate in the state program, whatever it might be.

The Senate passed the bill, which is a slightly modified version of the original, on a 35-0 vote; while the House vote to approve was much closer.

The motivations for votes against the bill varied. Some felt that the disposal ban was unjustified and they accordingly did not want to support anything associated with the ban; some felt wary of having Maine be the incubator for an untested recycling program and wanted to wait awhile; others just felt the take-back program was either totally unworkable or simply flawed as presented by the bill.

A defeat of the bill would have had a negative impact on municipalities because the municipalities would have been left alone to craft a solution to the problem that the state created with its disposal ban. Fortunately, the bill has passed and there is an opportunity for the state to provide some relief for those towns.