

Legislature Enacts Its Version of Question 1A

The Legislature enacted LD 1 into law last night, which is the lawmakers' version of what Maine voters enacted when they adopted the *School Finance and Tax Reform Act of 2003* (a.k.a., Question 1A) on June 8, 2004.

LD 1 is fairly represented as a new law that aggressively implements the new school funding distribution formula that is based on the essential programs and services funding model (EPS).

From the municipal perspective, however, LD 1 does not fulfill the vision of Question 1A. That vision included broad-based, statewide, significant property tax reduction and the Legislature's good-faith investment in the effort of comprehensive tax reform.

In five separate sections of LD 1, the actual law adopted by the voters is repealed and replaced with the Legislature's alternative vision of "property tax reform". In its final form, LD 1 more closely resembles the Legislature's competing measure to Question 1A, known at the time as Question 1B, which was rejected by the voters in November 2003.

LD 1 has five separate but interrelated elements. The new law:

- Phases in the state's obligation to fund 55% of the cost of K-12 education over a four-year period.

- Establishes a spending limitation system on state, county, school and local government which essentially consists of various formulas to define a year-to-year spending growth allowance for each level of government and permits those allowances to be exceeded by majority votes at each respective legislative level.

- Expands the eligibility and benefit levels under the circuit breaker property tax and rent rebate program.

- Doubles the face value of the homestead property tax exemption to \$13,000, but provides only 50% state reimbursement for the lost property tax revenue, shifting over \$30 million of the cost of municipal services to local businesses, non-residents, renters, and owners of open land.

- Shifts the municipal revenue sharing distribution to move approximately 5% of those existing revenue sharing funds from low mill rate communities to higher mill rate communities.

Last ditch efforts. A number of what proved to be futile attempts to make LD 1 more faithful to the law adopted by the voters were rejected by both the House and Senate. The most focused of those amendments was a proposal offered in both chambers which would have accelerated the state's obligation to fund education at the 55% level over a two-year period rather than the four-year period established in LD 1.

At the center of the four-year versus two-year debate was the issue central to Question 1A; that is, what state resources should be obtained to properly fund the cost of education? One side of that debate holds that the state should find the revenue to meet its re-established school funding obligation entirely from existing state resources. The other side of the debate holds that the state could only accelerate its school funding schedule by increasing state revenues...that there was no revenue within the existing state budget to provide any accelerated funding.

It is an "either-or" debate that was destined to end in political impasse. Both the municipal perspective and the directives established by the Question 1A law

adopted by the voters clearly embrace a "both-and" approach, where some of the state's 55% school funding obligation would be financed by a careful review of state spending priorities and the revenue otherwise needed to meet the state's financial obligations should be obtained by redesigning and realigning the state's overall tax code.

The "either-or" approach, however, fits better into the culture of partisan politics and was manifested in the two versions of the two-year ramp presented to the Legislature.

The first version was the proposed amendment to LD 1 – the so-called "unfunded two year ramp" — which failed in both chambers on the argument that it would be too damaging to existing state programs.

The "funded two-year ramp" presented to the Legislature was LD 300, a spin-off of LD 1, which would provide the increased revenue to meet the 55% obligation within this biennium by expanding the sales tax base to cover amusement and recreation services and increase the general sales tax rate from 5% to 5.5%. LD 300 was crushed in both House and Senate for having the audacity to raise a tax to reduce a tax, which is politically forbidden.

Learning Curve. LD 1 was not enacted by the Legislature with the 2/3 level of support in both House and Senate that is necessary to become immediately effective. Therefore, the legislation will not become effective until 90 days after the First Regular Session of the 122nd Legislature is adjourned. Since the adjournment date is not known, the effective date of LD 1 is also an unknown

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LEGISLATURE (cont'd)

at this time, but would likely be sometime in September of this year. A relatively unusual amendment was tacked onto the bill before final enactment, however, which would make all the pertinent provisions of LD 1 retroactive to July 1, 2005 (with respect to school budgeting and the spending limitation systems) and April 1, 2005 (with respect to the new homestead property tax exemption). The intention of these retroactive provisions is to make the law go into effect for this upcoming fiscal year even though the law won't be "operational" until September.

With the enactment of LD 1, municipal and school personnel will need to become immediately familiar with the new terms, formulas and procedures contained in LD 1. A short list includes:

- Each municipality should immediately identify its new "property growth factor", which is part of the blended formula to determine each municipality's unique year-to-year statutorily imposed spending allowance.
- Each school system should immediately identify its 100% EPS-defined budget for the upcoming school year so that the school board will be aware of whether its proposed budget will be subject to certain override procedures when it is presented to the voters or the town or city council.
- All municipal officers (town or city councils and boards of selectmen), all town meeting moderators, and all municipal election clerks should familiarize themselves with the special budget adoption procedures that will

now have to be employed if either the proposed school budget or municipal budget exceeds the formula-driven spending allowance.

- All town or city councils and all election clerks in those council communities should examine their local charters to determine the applicability of the new "peoples' veto" rights established in LD 1 to allow referendum reconsideration of either municipal or school budgets under certain circumstances. The operation of municipal

government in the circumstance of a peoples veto reconsideration and suspended municipal budget should be determined.

- All municipal assessors should familiarize themselves with the implementation of the new \$13,000 homestead reimbursement, especially with the impacts on total property tax revenue given the fact that the state will be reimbursing only 50% of the property tax revenue lost because of the new exemption.

LPC Reconsiders Rural Patrol Issue

As is the case in any family, network of friends or membership organization, it is not uncommon to at times find one or more elements of a group feeling misunderstood, hurt and taken for granted. While the process of discord felt by a segment of the group is not easily resolved, at its meeting on Thursday this week MMA's Legislative Policy Committee accepted the challenge to work toward addressing the rift that seems be surfacing between the Maine's rural and service center communities.

That rift came to head this year when the LPC voted in December to advance legislation that would require county law enforcement services to be paid for by those communities that do not have municipal police departments. As proposed, the county commissioners would be required to calculate the budgeted cost of non-contracted rural sheriff patrol services separately from the total county assessment. The cost of the rural patrol service would be assessed on the basis of use rather than on the basis of municipal valuation. That legislation was subsequently submitted and now exists at LD 249, *An Act to Amend the Calculation for Annual County Tax Assessments*.

Municipal officials have often debated the issue of how municipalities should pay for county patrol services. Some municipal officials believe that the communities that rely on rural patrol should be assessed separately for that service. The municipal officials in towns without a police department typically

believe that when the entire county budget is taken into account, there are some services provided disproportionately to the people in rural towns and other services provided disproportionately to their more urban counterparts. In an analysis prepared by MMA staff, it was determined that under the terms of LD 249, 130 communities would benefit under the proposal, while 360 communities would experience higher county tax bills.

Shortly after the LPC's initial support for LD 249 was reported, a number of municipal officials representing rural communities expressed concern with the LPC's decision. Following a protocol formally established several years ago, MMA's Executive Committee voted to ask the LPC to reconsider its decision to advance this legislation. That request was honored at the LPC meeting held on Thursday this week.

After much discussion and debate on the proposed county assessment bill, the LPC came to the conclusion that the differences between rural and service centers, albeit resolvable, extended beyond the issue of county assessments. On the joint motion of Alfred selectman, John Sylvester, and Bath city manager, John Bubier, the LPC unanimously voted to take a "neither for nor against" position on LD 249, on the condition that the LPC, through the creation of a balanced subcommittee of rural and urban LPC membership, would comprehensively ad-

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Legislative Bulletin

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

Criminal Justice & Public Safety

LD 10 – Resolve, To Fund a Study Regarding Health Care for Maine’s Firefighters. (Reported by Rep. Blanchette of Bangor.)

This resolve would appropriate \$75,000 in FY 06 to fund a study by the Maine Fire Protection Services Commission regarding the provision of health care benefits to firefighters.

Health & Human Services

LD 21 – An Act To Enhance Community Involvement Regarding Methadone Clinics. (Sponsored by Rep. Mazurek of Rockland; additional cosponsors.)

This bill would require the Department of Human Services to establish annual performance standards for the licensing of methadone clinics and require the Department to hold a public meeting in the municipality where a methadone clinic is proposing to locate prior to issuing a license.

LD 168 – An Act To Establish a Statewide Residency Requirement for General Assistance. (Sponsored by Rep. Browne of Vassalboro; additional cosponsors.)

This bill would require that an applicant for General Assistance must have resided in a municipality in Maine for at least the previous 30 days.

Legal & Veterans Affairs

LD 70 – An Act To Amend the Laws Governing the Funding of State Special Elections. (Sponsored by Rep. Brown of South Berwick; additional cosponsors.)

This bill would require the state to pay the cost of holding special elections allowed by the Legislature by reimbursing municipalities for the election costs directly incurred.

LD 100 – Resolve, Requiring the Secretary of State To Develop Voting Systems Standards. (Emergency) (Sponsored by Rep. Patrick of Rumford; additional cosponsors.)

This emergency resolve would authorize the Secretary of State to establish a stakeholders group that would be charged with developing a comprehensive approach to voting system standards that apply uniformly and in a non-discriminatory manner and that define what constitutes a vote and what must be counted as a vote for each category of voting system used in Maine.

State & Local Government

LD 249 – An Act To Amend the Calculation for Annual County Tax Assessments. (Sponsored by Rep. Barstow of Gorham; additional cosponsors.)

This bill would change the way county assessments are levied against the municipalities. Under current law, the entire county assessment is applied to the municipalities within the county on the basis of each municipality’s proportional valuation. This bill would direct the counties to assess the cost of non-contracted rural patrol on the basis of each municipality’s use of that service, rather than

municipal valuation.

LD 320 – An Act To Limit Property Acquired by Municipalities due to Tax Delinquency. (Sponsored by Rep. McKane of Newcastle; additional cosponsors.)

This bill would create a mandatory process municipalities would have to follow before acquiring property as a result of non-payment of taxes. First, the municipality would have to formally notify all taxpayers of their right to enter into a payment plan with the municipality in order to avoid foreclosure of a tax lien. The bill would further provide the right to negotiate a payment plan with the heirs of a taxpayer who dies during the execution of a payment plan. If a property is ultimately foreclosed for nonpayment of taxes, the former owner must be notified of his or her right to repurchase the property by establishing a repayment plan. The former owner or former owner’s surviving spouse would have a continuing right to reside in the foreclosed property, and any applicable payment plan must be adjusted according to the surviving spouse’s ability to pay. All these same rights would apply to a person occupying commercial property which has been subject to foreclosure. Finally, this bill would require a municipality to return to the former owner any residual “proceeds” of a foreclosure sale that exceeded the back taxes, interest and costs.

Transportation

LD 47 – An Act To Require the State To Provide Winter Maintenance on State Aid Highways. (Sponsored by Rep. Thomas of Ripley; additional cosponsors.)

This bill would require the state to be either directly or financially responsible for all winter maintenance on state aid highways.

LD 113 – An Act To Allow Animal Control Officers and Individuals Who Collect Trash To Use Flashing Amber Lights on Their Vehicles. (Sponsored by Rep. Browne of Vassalboro; additional cosponsors.)

This bill would authorize a motor vehicle used by a municipal animal control officer to be equipped with auxiliary lights that emit a flashing amber light.

Utilities & Energy

LD 205 – An Act Providing for Regulation of the Cable Television Industry by the Public Utilities Commission. (Sponsored by Rep. Gerzofsky of Brunswick; additional cosponsors.)

This bill would give the Public Utilities Commission (PUC) total jurisdiction over the regulation of basic system tier rates and services provided by any cable television system that is not subject to effective competition. The bill establishes the notice, hearing and other procedures that must be followed before any regulated cable television company could increase a rate or change a service, and the bill provides an authority for the PUC to assess cable television companies to cover the regulatory costs on both the PUC and municipal level.

RURAL PATROL (cont'd)

dress the sometimes conflicting interests and competing needs of Maine’s smaller and larger municipalities, and develop concrete recommendations guided by sound public policy that will strengthen

that inter-municipal relationship.

The purpose of the working group is to identify the areas of tension between rural and service center communities, including but certainly not limited to the issue of county sheriff’s patrol and the financing of county government, and

work toward creating comprehensive solutions for addressing the concerns and issues raised by rural and service center communities. The working group is charged with presenting its findings and recommendations to the entire LPC no later than June of this year.

LEGISLATIVE HEARINGS

Monday, January 24

Appropriations & Financial Affairs
Room 228, State House, 9:00 a.m.
Tel: 287-1635

Budget Bill (LD number not assigned as yet) – An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2006 and June 30, 2007.

With the Joint Standing Committee on Agriculture, Conservation and Forestry.

1:00 p.m.

With the Joint Standing Committee on Marine Resources.

Criminal Justice & Public Safety
Room 436, State House, 10:00 a.m.
Tel: 287-1122

LD 10 – Resolve, To Fund a Study Regarding Health Care for Maine’s Firefighters. (Reported by Rep. Blanchette of Bangor.) (Submitted by Maine Fire Protection Services Commission)

Tuesday, January 25

Appropriations & Financial Affairs
Room 228, State House, 10:30 a.m.
Tel: 287-1635

Budget Bill (LD number not assigned as yet)

With the Joint Standing Committee on Transportation

11:45 a.m.

With the Joint Standing Committee on Inland Fisheries and Wildlife

1:30 p.m.

With the Department of Inland Fisheries and Wildlife.

Transportation
Room 126, State House, 1:00 p.m.
Tel: 287-4148

LD 47 – An Act To Require the State To Provide Winter Maintenance on State Aid Highways. (Sponsored by Rep. Thomas of Ripley; additional cosponsors.)

Wednesday, January 26

Appropriations & Financial Affairs
Room 228, State House, 9:00 a.m.
Tel: 287-1635

Budget Bill (LD number not assigned as yet)

With the Joint Standing Committee on Criminal Justice & Public Safety.

3:00 p.m.

With the Joint Standing Committee on Legal & Veterans Affairs.

Legal & Veterans Affairs
Room 437, State House, 1:15 p.m.
Tel: 287-1310

LD 100 – Resolve, Requiring the Secretary of State To Develop Voting Systems Standards. (Emergency) (Sponsored by Rep. Patrick of Rumford; additional cosponsors.)

LD 70 – An Act To Amend the Laws Governing the Funding of State Special Elections. (Sponsored by Rep. Brown of South Berwick; additional cosponsors.)

Thursday, January 27

Appropriations & Financial Affairs
Room 228, State House, 1:00 p.m.
Tel: 287-1635

Budget Bill (LD number not assigned as yet) With the Joint Standing Committee on Labor.

Friday, January 28

Appropriations & Financial Affairs
Room 228, State House, 9:00 a.m.
Tel: 287-1635

Budget Bill (LD number not assigned as yet) With the Legislative Council.

10:00 a.m.

With the Joint Standing Committee on State & Local Government.

Transportation
Room 126, State House, 9:00 a.m.
Tel: 287-4148

LD 113 – An Act To Allow Animal Control Officers and Individuals Who Collect Trash To Use Flashing Amber Lights on Their Vehicles. (Sponsored by Rep. Browne of Vassalboro; additional cosponsors.)