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Education: Equal Apportionments

20 M.R.S.A. § 305

Education: Apportionment of Local Costs

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AUGUSTA, MAINE 04333

February 2, 1978

To: James J. Vickerson, Jr., Deputy Commissioner,
Department of Educational and Cultural Services

From: Joseph E. Brennan, Attorney General

Re: L.D. 2022 - An Act Relating to the Funding of Education.

This is in response to the two questions which you and the Education Committee of the 108th Legislature have asked in your request of January 26, 1978.

The facts presented are that the voters within each School Administrative District ("SAD"), at the time of the formulation of each district, approved a cost sharing formula pursuant to 20 M.R.S.A. § 305 based upon the state valuation of the member municipalities and some SAD's, formed after 1967, elected the option of a combination of the state valuation and the number of pupils within each member municipality. During the years that the Uniform Property Tax was imposed under 36 M.R.S.A. § 451, et seq., these cost sharing formulae were used only for education appropriations in excess of amounts raised "over and above the uniform property tax assessed by the State Tax Assessor for school purposes." 20 M.R.S.A. § 305, 2nd paragraph. On December 5, 1977, the voters repealed by a referendum vote the Uniform Property Tax provisions contained in 20 M.R.S.A. §§ 3742 and 3748 and 36 M.R.S.A. §§ 451.2, 452, 453 and 453-A.

FIRST QUESTION:

The first question raised is whether municipalities within an SAD which were "pay-in" towns^{1/} under the State Uniform Property

^{1/} If a town's share of the Uniform Property Tax exceeds the amount of state funds allocated to it for education, which are computed under 20 M.R.S.A. § 3748, then it is considered to be a "pay-in" town.

Tax assessment must be protected from any future "pay-in" to the SAD despite the original cost sharing formula adopted when the SAD was formed?

ANSWER:

The answer to this question is no. The result of the December 5, 1977, referendum vote was to repeal the assessment of a state-wide Uniform Property Tax. The results of the referendum vote do not effect any cost sharing formula within an SAD.

SECOND QUESTION:

Your second question is whether the Legislature may protect these "pay-in" towns within an SAD from any future "pay-in" to the SAD despite the provisions of the cost sharing formula adopted when the SAD was formed?

ANSWER:

We are not able to give a categorical answer to your question, as the Legislature may be considering several options, both direct and indirect, for providing relief. However, we would advise that legislation which would provide direct relief in a manner which would cause different tax rates to be assessed by an SAD against property in a "pay-in" town compared to similarly valued property in another town within the SAD would not be consistent with the Maine Constitution.

REASONS:

Article IX, § 8 of the Maine Constitution requires in part that:

"ALL TAXES UPON REAL AND PERSONAL ESTATE
ASSESSED BY AUTHORITY OF THIS STATE, SHALL
BE APPORTIONED AND ASSESSED EQUALLY, ACCORD-
ING TO THE JUST VALUE THEREOF."

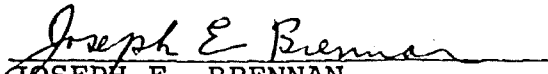
See Kittery Electric Light Co. v. Assessors of the Town of Kittery, 219 A.2d 728 (Me., 1966); Frank v. Assessors of Skowhegan, 329 A.2d 167 (Me., 1974); Shawmut Manufacturing Co. v. Town of Benton, 123 Me. 121 (1923). Therefore, if an SAD is assessing a tax, the tax must be levied equally upon all taxable property in the district. Article IX, § 8, supra. Since a tax may only be imposed with "the consent of the people or of their representatives in the Legislature" (M.R.S.A. Const., Art. I, § 22), it is essential to analyze Title 20 of the Revised Statutes of 1964 to determine whether an SAD is assessing a tax upon taxpayers in its member municipalities.

The second paragraph of 20 M.R.S.A. § 305 requires the directors of an SAD to issue their warrants to the assessors of the member towns requiring them to assess the taxable polls and estates in their towns for their share of the SAD budget. Pursuant to the eighth paragraph of § 305, the assessors of the towns are to commit their assessments to the tax collectors within the towns. The tax collectors shall collect the towns' share of the SAD budget in the same manner as they would collect state, county and municipal taxes. If a member town fails to raise its share, then the SAD may collect the necessary taxes from the town in the same manner as a county can collect delinquent taxes from a town. 20 M.R.S.A. § 305, 30 M.R.S.A. § 254, 36 M.R.S.A. § 891. (Similar authority exists for Community School Districts under 20 M.R.S.A. § 355).

Consequently, it is clear that an SAD is a taxing authority authorized by the State, and any tax assessed within the SAD "shall be apportioned and assessed equally, according to the just value" of the class of property being taxed. In fact, prior to the enactment of the "Sinclair Act" [legislative authorization for the formation of School Administrative Districts] in 1958, the Supreme Judicial Court held that the proposed ". . . Act observes the requirements of the Constitution for equal taxation by adopting the state valuation." Opinion of the Justices, 153 Me. 475 (1958).^{2/}

If the Legislature intends to protect "pay-in" towns within an SAD, it must do so without violating the constitutional requirements of Article IX, § 8 of the Maine Constitution. In other words, because of the present statutory system of financing SAD's, any statute which would protect these "pay-in" towns must be designed so that the goal is accomplished without subjecting the taxpayers within the member municipalities of the SAD's to different tax rates or valuation bases.

The research of this question necessitated a close analysis of 20 M.R.S.A. § 305. Without rendering an opinion on the three methods of cost sharing authorized by 20 M.R.S.A. § 305, the Alternate Methods A and B may result in a tax being assessed within an SAD which is not uniform. It may be desirable to review the cost sharing formulae of the SAD's to determine whether those formulae adhere to the constitutional requirements of Article IX, § 8.


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^{2/} The "Sinclair Act" only authorized taxation based upon state valuation. Alternate Methods A and B were added by amendment in 1967. P.L. 1967, c. 483, § 3.