

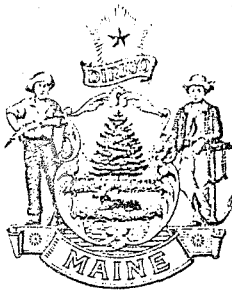
MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

March 26, 1979

Raymond L. Halperin
State Tax Assessor
Bureau of Taxation
State Office Building
Augusta, Maine 04333

Dear Mr. Halperin:

This responds to your request for advice on the following question:

"May the Legislature provide for the reimbursement to municipalities for more than 50% of the property tax losses caused by a property tax exemption enacted after April 1, 1978?"

It is our opinion that article IV, pt. 3, section 23 of the Maine Constitution requires the Legislature to reimburse municipalities for 50%, not more or less, of the property tax losses occasioned by property tax exemptions enacted after April 1, 1978. Our conclusion is based on a careful reading of the language of the constitutional amendment as well as its legislative history.

Article IV, pt. 3, section 23 of the Maine Constitution states:

"The Legislature shall annually reimburse each municipality from state tax sources for 50% of the property tax revenue loss suffered by that municipality during the previous calendar year because of statutory property tax exemptions or credits enacted after April 1, 1978. The Legislature shall enact appropriate legislation to carry out the intent of this section."

L.D. 1227, introduced in the 108th Legislature, was the first resolution proposing a constitutional amendment requiring legislative reimbursement. It provided that:

"The Legislature shall annually reimburse each municipality for at least 50% of the property tax revenue loss suffered by that municipality during the previous calendar year because of statutory property tax exemptions. The Legislature shall enact appropriate legislation to carry out the intent of this section."
(emphasis supplied)

There are two important differences between L.D. 1227 and the final version of article IV, pt. 3, section 23. First, L.D. 1227 required reimbursement "for at least 50%" rather than "for 50%." Second, L.D. 1227 provided reimbursement for losses caused by all existing property tax exemptions rather than for exemptions and credits enacted after April 1, 1978.

The bill was referred to the Committee on State Government where the majority recommended that it ought not to pass. One reason for this unfavorable recommendation was the uncertainty of the cost of reimbursement, Legislative Record, June 16, 1977, pp. 1736-1737. The minority report was adopted and Senate Amendment "A", S-274, was introduced to deal with the concerns that legislators expressed regarding the cost of reimbursement under L.D. 1227. Senate Amendment "A", S-274, provided:

"The Legislature shall annually reimburse each municipality for 50% of all new, reenacted or expanded statutory property tax exemptions or credits granted after the date this section has become part of the Constitution. The Legislature may waive this reimbursement responsibility if municipalities are granted the statutory authority for obtaining other revenue sources sufficient to replace the revenues lost or through increasing the state-municipal revenue sharing program.

The Legislature shall enact appropriate legislation to carry out the intent of this section." (emphasis supplied)

Senate Amendment "A", S-274, made several significant changes. First, it limited reimbursement to new, reenacted or expanded exemptions or credits rather than for all existing property tax exemptions. Second, it restricted the level of reimbursement to 50% of qualifying losses. Third, it permitted the Legislature to waive its reimbursement responsibilities if (1) it authorized municipalities to assess new taxes to make up for the revenue loss caused by new property tax exemptions and credits, or (2) it increased the state-municipal revenue sharing

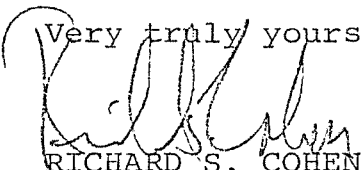
program. Although this amendment did facilitate estimating the cost of a reimbursement program, it also introduced another element of controversy by providing that the reimbursement could be obtained from local tax sources or from additional revenue sharing money rather than from state tax sources.

Several amendments dealing with these problems then followed: House Amendment "A", H-803; House Amendment "B", H-817; Senate Amendment "A" to House Amendment "B", S-332; and House Amendment "C", H-884. These amendments, like L.D. 1227, all stated that the Legislature would reimburse municipalities "for at least 50%" of their losses. The House and Senate were unable to reach a consensus on the form that the constitutional resolution should take. It referred the matter to a Committee of Conference.

The Committee of Conference proposed an amendment, H-937, which was passed by both legislative bodies and became article IV, pt. 3, section 23. This amendment, unlike L.D. 1227, House Amendments "A", "B", "C" and Senate Amendment "A" to House Amendment "B" stated that the Legislature would reimburse municipalities for 50% (not "for at least 50%") of their qualifying losses. The significance of this language is emphasized in the Statement of Fact accompanying Committee of Conference Amendment "A", H-937: "This amendment changes the bill by . . . (3) Limiting reimbursement to 50% of losses caused by property exemptions and credits enacted after April 1, 1978." (emphasis supplied) Finally, the legislative debate on this amendment indicates clearly that the Legislature recognized that reimbursement would be limited to 50%. Senator Morrell, for example, stated: "I think this is a good bill, I would have been even more enthusiastic if the 50 percent had been 100 percent." Senator Collins stated: "It provides only for reimbursement of 50 percent, not 100 percent. . . ." Legislative Record, July 11, 1977, p. 2414. See also comments of Representative Bachrach, Legislative Record, July 8, 1977, pp. 2359-2360.

In light of the plain meaning of the term "for 50%" and the extensive legislative history of article IV, pt. 3, section 23, we must conclude that the Legislature is required by our Constitution to reimburse municipalities for 50%, not more or less, of the property tax exemptions and credits enacted after April 1, 1978.

Very truly yours,


RICHARD S. COHEN
Attorney General

RSC:ks

cc: The Hon. John L. Martin
cc: The Hon. Frank Carter
cc: The Hon. Bonnie Post
cc: The Hon. David S. Silsby