

MAINE STATE LEGISLATURE

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MINORITY

L.D. 349

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TAXATION

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STATE OF MAINE

SENATE

124TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 113, L.D. 349, Bill, "An Act To Authorize Arbitration of Property Tax Valuation Disputes"

Amend the bill in section 1 in subsection 1 by striking out all of paragraphs B and C (page 1, lines 17 to 41 and page 2, lines 1 to 21 in L.D.) and inserting the following:

B. Except with regard to nonresidential property or properties with an equalized municipal valuation of \$1,000,000 or greater either separately or in the aggregate, either party may:

(1) Appeal from the decision of the board of assessment review directly to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure; or

(2) Submit the decision of the board of assessment review to binding arbitration as provided in paragraph C.

C. An applicant may submit an application that has been denied by the board of assessment review to binding arbitration and a municipality may submit an abatement determination by the board of assessment review to binding arbitration by providing written notice to the other party within the time period for appealing the decision of the board of assessment review to the Superior Court. Either party's election to submit to binding arbitration stays a timely filed appeal to the Superior Court by the other party.

The arbitration must be before a neutral party, jointly chosen by the municipality and the applicant, who:

(1) Is experienced in real estate valuation;

(2) Is not a resident of the municipality;

(3) Does not own property in the municipality; and

(4) Does not have a material business or social relationship to the applicant, the municipality or the municipal officials.

COMMITTEE AMENDMENT

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If the applicant and the municipality cannot agree upon an arbitrator within 14 days of submission to arbitration, the Superior Court, upon request of either the municipality or the applicant, shall appoint a neutral arbitrator in accordance with subparagraphs (1) to (4). The cost of the arbitrator must be shared equally between the municipality and the applicant, except that the arbitrator may decide that the conduct of the parties requires a different allocation of the costs.

The arbitrator shall hold a de novo hearing to determine the just value of the property in accordance with standards of valuation and substantive law, including, without limitation, determination of the fair market value by applying the comparable sales method and assuming a willing buyer and seller and a reasonable marketing period. Either party may present relevant evidence, cross-examine witnesses and be represented by counsel. The arbitrator is solely responsible for making reasonable determinations of procedure and admissibility of evidence, including compulsion of witnesses, production of evidence and adjournment of the arbitration for good cause shown. The burden of proof is on the property owner to show the assessor's valuation is manifestly wrong, results in unjust discrimination or is otherwise contrary to law. The arbitrator shall render a written decision within 60 days of appointment. Upon agreement of both parties, the time restrictions in this paragraph may be waived.

The Superior Court shall confirm the timely decision of the arbitrator upon application of either party within 60 days of the arbitrator's decision unless the Superior Court finds that the decision of the arbitrator was subject to vacation by the Superior Court under the substantive standards for vacating an arbitration award under Title 14, chapter 706, including, without limitation, an instance of a decision procured by corruption, fraud or other misconduct that substantially prejudiced the rights of either party or when an arbitrator exceeded the arbitrator's powers. The Superior Court may correct any evident miscalculation of figures or obvious errors in description or other matters of form not affecting the merits of the arbitrator's decision.

If the arbitrator fails to render a decision within 60 days or other time period agreed to by both parties, either party may appeal the original decision of the board of assessment review to the Superior Court as provided in paragraph B. The appeal must be filed no later than the time specified in Rule 80B of the Maine Rules of Civil Procedure following the date by which the decision was due from the arbitrator.'

SUMMARY

This amendment permits a municipality as well as a property owner to seek binding arbitration, ensures that the standard for valuation is just value, clarifies that the burden of proof that the assessor's valuation is manifestly wrong is on the property owner and makes other changes to the arbitration procedures.

FISCAL NOTE REQUIRED
(See attached)



124th MAINE LEGISLATURE

LD 349

LR 733(02)

An Act To Authorize Arbitration of Property Tax Valuation Disputes

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

State Mandate - Unfunded

State Mandates

Required Activity

Unit Affected

Local Cost

Requiring municipalities to engage in additional administrative and clerical functions, including participating in arbitration and possibly sharing half the costs of said arbitration, may be a mandate under the Constitution of Maine.

Municipality

Significant statewide

The required local activities in this bill may represent a State mandate pursuant to the Constitution of Maine. Unless General Fund appropriations are provided to fund at least 90% of the additional costs or a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement, municipalities may not be required to implement these changes.