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MSSA
Maine School Superintendents Association

TESTIMONY IN OPPOSITION TO

L.D. 1022

AN ACT TO ALLOW SCHOOL BUDGET REFERENDA ON THE SAME DAY AS PRIMARY ELECTIONS

Senator Hickman, Representative Supica and members of the Veterans and Legal Affairs Committee. I am Steven Bailey, executive director of Maine School Management Association, testifying on behalf of the legislative committees of the Maine School Boards Association and Maine School Superintendents Association, in opposition to L.D. 1022.

L.D. 1022 ought not to pass because it restricts necessary discretion best left to local officials.

Instead, the first sentence of 20-A MRSA §1486, subsection 2, should simply be amended to require the budget validation referendum to be held within 45 days, rather than 30 days, of the budget meeting.

By way of background, the BVR was implemented after extensive studies of the difficulties of school budget approval in many areas of the state. Sections 1485, 1486, and 2307 of Title 20-A implemented a validation referendum as a type of "check" or safeguard on the action of the budget meeting, much the same in effect as a reconsideration vote. At the same time, the BVR also gave more opportunity to vote for those that could not attend the budget meeting or did not wish to do so. As originally enacted, in fact, the validation referendum was required to be held no more than three business days after the budget meeting – in other words, with almost no opportunity for absentee voting at all. Truly, just a "check" on the budget meeting's deliberative process should that simply be at variance with the community sentiment.

As a matter of principle, elected school boards of RSUs, MSADs, and CSDs are best positioned to decide their budget meeting dates and referendum dates for critical school budgets each year, and it is better that they have that flexibility to respond to changing circumstances. Factors such as declining enrollments, higher property valuations, lower state subsidy, collective bargaining agreements, and new mandates mean that school boards must make difficult and delicate decisions affecting school budgets, student education, employment levels, and education services. School boards need time to consider and make these tough decisions. Sometimes, more time is needed, which delays the budget meeting. Flexibility as to the dates and the period between the budget meeting and BVR is critically important should a budget problem develop for a particular year.

In municipal school units, the municipal officials already select the BVR date because they sign the warrant.

L.D. 1022 is not needed because throughout the state, local school and municipal officials have already navigated these BVR timing issues successfully. MSMA's polling shows that in 80% of cases, the date of the

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BVR aligns with the June referendum date. This demonstrates that the alignment decision is best left local, and best left flexible. Nothing is really broken for Augusta to fix by mandate that cannot be resolved by those local school and municipal officials. Again, even in these cases where referendum dates align, should a budget problem develop in a particular year, it is better to have flexibility.

In the remaining 20% of cases where there are separate referendum dates, there are very good reasons to hold the BVR earlier – including (i) the need for school administrators to resolve district budgets earlier than June; (ii) the need for municipalities, including March town meeting towns and cities (such as Portland) to resolve budgets earlier; and (iii) the need where the BVR vote is "No" to have a second BVR before July 1. This earlier referendum may be inconvenient for the municipal clerks, but it is a matter best left in the discretion of local officials to resolve by discussion. If there were not very good reasons for separate referendum dates, the alignment of dates would have shifted by now. "Fixing" this by locking school boards into a different schedule for the BVR can create a much bigger problem than managing separate referendum dates and absentee voting periods.

In addition, L.D. 1022 is arbitrary and vague in an area – taxation – where courts will strictly scrutinize the legislation. For one thing, the term "charters" is vague and arbitrary as applied to RSUs, MSADs, and CSDs. It is also arbitrary as between non-charter and charter municipal school units. Second, the bill has no workable mechanism to make the change. How would this change be made by the "participating municipalities"? Who makes this decision and why are they more qualified than the elected school board? When does that decision become effective? How long is the change good for? How is it repealed or suspended when more time is needed for the school budget? Is unanimity of the "participating municipalities required," and if not, why not? As drafted, L.D. 1022 does not answer these questions. Litigation is likely to result – litigation calling into question the validity of tax assessments to support education.

Finally, L.D. 1022 is unnecessary for this reason. Every three years the voters may do away with the BVR if they wish. So the answer already lies with the voters as it should. Certain municipal officials may think that the BVR is too much "process" for a school budget, but we already know that when voters feel this way – that the BVR is unnecessary or undesirable – they well know how to eliminate the BVR as they have in many instances.

At most, 20-A MRSA §1486(2) could be amended to require the BVR within 45 days of the budget meeting instead of 30 days. With this single change, local flexibility and control would be retained, and in the great majority of cases local and school officials would be able to resolve all the issues, including the time needed to print ballots for both elections, the absentee voting period for both elections, and the referendum date for both elections.