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Contains: Additional Hearing and Amendments for March 18

HOUSE CALENDAR

COMMITTEE MEETINGS

TUESDAY, MARCH 23

EXECUTIVE DEPARTMENTS AND ADMINISTRATION, Room 202, LOB

9:30 a.m. Public hearing on a proposed amendment to *HB 412-FN*, relative to the state treasurer and increasing the limit on state indebtedness. (The proposed amendment amends the bond guarantee powers of the business finance authority. Copies of the amendment will be available from the Sergeant-at-Arms Office.)

THURSDAY, MARCH 18

AMENDMENTS TO HOUSE RULES

1999-0368h

Amendment to HR 1

Proposed by Reps. G. Chandler and Burling

Amend Rule 64 to read as follows:

April 1, 1999, Thursday

Last day to amend house rules by majority vote.

1999-0014h

Floor Amendment to HR 1

Proposed by Reps. Wallin, Martin and Dickinson

Amend House Rule 45 by deleting paragraph (c).

THURSDAY, MARCH 18

ADDITIONAL AMENDMENTS

1999-0432h

Floor Amendment to HB 108 FN-A-LOCAL

Proposed by Rep. Corbin

Amend the title of the bill by replacing it with the following:

AN ACT declaring the New Hampshire supreme court's Claremont II decision to be an unconstitutional violation of the separation of powers mandate under part I, article 37 of the New Hampshire constitution.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Findings and Intent; Affirmation by the Legislature of the Constitutionality of the Current Tax Structure.

I. The members of the executive and legislative branches of the state of New Hampshire, having made and subscribed an oath to God and to the state and its constitution, or alternatively, by affirming under the pains and penalties of perjury, their allegiance to the state of New Hampshire and its constitution pursuant to part II, article 84 of said constitution, hereby find that the decision of the New Hampshire supreme court nullifying the use of the current property tax structure as the means for funding public education is an unconstitutional violation of the separation of powers mandate under part I, article 37 of the New Hampshire constitution.

II. In furtherance of this position, the legislature finds that under part I, article 29 of the New Hampshire constitution, the legislature possesses the sole authority to create laws, and that under part I, article 29 of said constitution, the legislature possesses the sole authority to suspend laws. Moreover, the legislature finds additional constitutional support for its position as follows:

(a) Part I, article 1, relative to the origin and object of government.

(b) Part I, article 2 relative to individual property rights.

(c) Part I, article 6 relative to local control of education, both religious and secular.

(d) Part I, article 12, relative to the consent of the governed on taxation.

(e) Part I, article 28, relative to the consent of the people, or their representatives in the legislature, prior to the establishment or imposition of a tax.

(f) Part I, article 28-a, relative to the prohibition on unfunded mandates.

(g) Part I, article 31 and part II, article 2, relative to the authority of the legislature to make laws.

(h) Part II, article 83, relative to the New Hampshire supreme court's inconsistent and unsupported interpretation of "cherish"

to mean "to require payment for" within the context of this article.

III. The legislature hereby finds and declares that the current tax structure shall be legally binding until such time as the legislature may vote to change it. The legislature further finds that any attempt by the supreme court, or any other lower court, to interrupt or discontinue funding to the cities and towns, and their school districts, shall be met with the filing of bills of address for removal.

2 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill sets forth a legislative declaration, supported by constitutional findings, that the New Hampshire supreme court's Claremont II decision nullifying the current tax structure is an unconstitutional violation of the separation of powers mandate under part I, article 37 of the New Hampshire constitution.

1999-0441h

Floor Amendment to HB 108-FN-A-LOCAL

Proposed by Rep. Boyce

Amend the title of the bill by replacing it with the following:

AN ACT declaring the New Hampshire supreme court's Claremont II decision to be an unconstitutional violation of the separation of powers mandate under part I, article 37 of the New Hampshire constitution and establishing a local property tax education homestead allowance against school taxes on residential real estate, establishing a fund to reimburse municipalities for such exemptions, and making an appropriation therefor.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as section 13:

2 New Subparagraph; State Accounts; Application of Receipts. Amend RSA 6:12, I by inserting after subparagraph (vvv) the following new subparagraph:

(www) Moneys deposited in the education homestead allowance fund established in RSA76-A:2.

3 New Paragraph; Revenue Administration; Rulemaking Authority. Amend RSA 21-J:13 by inserting after paragraph XI the following new paragraph:

XII. The form and content for the application and statement of principal residency under RSA 76-A:1, II, and other matters necessary for the implementation of reimbursement to local tax collectors of towns, cities, and unorganized places of funds held in the education homestead allowance reimbursement fund under RSA 76-A.

4 New Paragraph; Revenue Administration; Municipal Services. Amend RSA 21-J:15 by inserting after paragraph IV the following new paragraph:

V. The administration of the education homestead allowance fund established in RSA76-A:2, and the determination of the reimbursement due to the tax collectors of each town, city, or unorganized place from the fund pursuant to the provisions of RSA 76-A:3.

5 Taxes Collected by Tax Collector; Reference to Education Homestead Allowance Added. Amend RSA 76:10 to read as follows:

76:10 Selectmen's Lists and Warrant. A list of all property taxes by them assessed shall be made by the selectmen under their hands, with a warrant under their hands and seal. The list shall be directed to the collector of such town, requiring ~~him~~ **the collector** to collect the ~~same~~ **portion due from each listed property and to certify the education homestead allowances pursuant to RSA 76:10-b for reimbursement pursuant to RSA 76-A**, and to pay to the town treasurer such sums and at such times as may be therein prescribed. The selectmen shall assess such taxes to the owner as of April 1, or to the current owner, if known. The selectmen of a town or the board of assessors of a city may round off to the nearest dollar the total tax due on each parcel appearing on the list.

6 New Section; Certification of Education Homestead Allowances. Amend RSA 76 by inserting after section 10-a the following new section:

76:10-b Certification of Education Homestead Allowances. The selectmen or assessors shall provide to the tax collector the total of the education homestead allowances granted in each town, city, or unorganized place. It shall be the duty of the tax collector to certify to the commissioner of revenue administration by October 1 of each year the total amount of the education homestead allowances granted and the actual cost to the town, city, or unorganized place of administering the provisions of RSA 76-A.

7 Tax Bills; Reference to Education Homestead Allowance Added. Amend RSA 76:11 to read as follows:

76:11 Delivery of List; Notice to Taxpayer; Other Bills. Such list shall be delivered to the collector within 30 days from the receipt of information by the selectmen from the commissioner of revenue administration of the rate percent of taxation as provided in RSA 41:15, unless for good cause the time is extended by the commissioner of revenue administration. The collector shall, within 30 days after the receipt of such list, send to every person taxed, a bill for ~~such~~ taxes **due** by first class mail, unless for good cause the time is extended by the commissioner of revenue administration. ~~Said~~ **The bill shall include any education homestead allowance granted under RSA 76-A. The** bill shall be mailed separately and not included with mailing of other town or city bills, unless the governing body of the town or city votes to mail other town or city bills or information directly related to municipal business along with the tax bill. Under no circumstances shall a city or town mail statements of position on matters of public policy along with the tax bill. Upon written request of a mortgagee or its representative, the tax collector of a city or town shall mail a duplicate copy of the property tax bill, as it was sent to the property taxpayer, to the party making such request. Other form of notification of tax owed, acceptable to the mortgagee and the tax collector, may be substituted for the duplicate tax bill. A separate written request, with specific property identification, shall be required for each duplicate copy or form. The governing body of a city or town may establish a reasonable fee to be charged for each duplicate copy or form. Resident tax bills may be included with property tax bills when the inclusion of such resident tax bills will not unduly delay the mailing of either the resident or property tax bills.

8 New Chapter; Education Homestead Act. Amend RSA by inserting after chapter 76 the following new chapter:

CHAPTER 76-A

EDUCATION HOMESTEAD ACT

76-A:1 Education Homestead Allowance.

I. Every owner of residential real estate shall be entitled to an education homestead allowance, according to the implementation schedule in paragraph III, on the amount of school property taxes assessed by the local tax collector.

II. No person shall be entitled to the education homestead allowance under this section unless the person has filed with the selectmen or assessors, by March 1 following the date of notice of tax under RSA 72:1-d, a permanent application therefor and a statement of principal residency, signed under penalty of perjury, on a form approved and provided by the commissioner of revenue administration, showing that the applicant is the true and lawful owner of the property on which the education homestead allowance is claimed and that the applicant was duly qualified upon April 1 of the year in which the education homestead allowance is first claimed. The form shall include such other information deemed necessary by the commissioner, pursuant to rules adopted under RSA541-A.

III. The education homestead allowance, except where limited under the provisions of RSA76-A:3, shall be 50 percent of the effective school tax rate in the town, city, or unorganized place, applied to the portion of appraised value, as adjusted by the most recently available equalization ratio under RSA 21-J:3, XIII, of the person's residential real estate according to the following schedule:

- (a) For local tax years 1999 and 2000, the first \$25,000 of value.
- (b) For local tax years 2001 and 2002, the first \$30,000 of value.
- (c) For local tax years 2003 and 2004, the first \$35,000 of value.
- (d) For local tax years 2005 and 2006, the first \$40,000 of value.
- (e) For local tax years 2007 and 2008, the first \$45,000 of value.
- (f) For local tax years 2009 and 2010, the first \$50,000 of value.
- (g) For local tax years 2011 and 2012, the first \$55,000 of value.

- (h) For local tax years 2013 and 2014, the first \$60,000 of value.
- (i) For local tax years 2015 and 2016, the first \$65,000 of value.
- (j) For local tax years 2017 and 2018, the first \$70,000 of value.
- (k) For local tax years 2019 and 2020, the first \$75,000 of value.
- (l) For local tax years 2021 and 2022, the first \$80,000 of value.
- (m) For local tax years 2023 and 2024, the first \$85,000 of value.
- (n) For local tax years 2025 and 2026, the first \$90,000 of value.
- (o) For local tax years 2027 and 2028, the first \$95,000 of value.
- (p) For local tax years ending after 2028, the first \$100,000 of value.

IV. For purposes of this section, "residential real estate" means the real estate which the person liable for the payment of local school property taxes occupies as his or her principal place of abode together with any land or buildings appurtenant thereto and shall include manufactured housing if used for said purpose.

76-A:2 Fund Established. There is established an education homestead allowance fund for the purpose of reimbursing tax collectors of towns, cities, and unorganized places the total amount of education homestead allowance under RSA 76-A:1. The fund shall be nonlapsing and continually appropriated for the purposes of this chapter. All moneys in this fund shall be used to provide payment to local tax collectors for the amount of the education homestead allowance against school taxes on property in towns, cities, or unorganized places. The state treasurer shall deposit into the fund any sums appropriated from the general fund or received from any other source whatsoever for the purpose of the education homestead allowance fund.

76-A:3 Reimbursement from Fund. The commissioner of revenue administration shall review the amounts certified by local tax collectors pursuant to RSA 76:10-b and shall determine for each town, city, or unorganized place the total amount of education homestead allowances against local school property taxes, and shall by December 1 of each year reimburse the local tax collectors, from the fund established in RSA 76-A:2, the amount due each town, city, or unorganized place. Such reimbursement shall include the actual cost of administration by the local tax collectors of the provisions of this chapter in the town, city, or unorganized place. Provided however, that beginning in tax year 2001, for any town, city, or unorganized place the amount of the reimbursement due under this section for any year shall be limited to an increase from the previous year of the lesser of 2 percent or the increase in the New England Consumer Price Index for the year as determined by the federal Bureau of Labor Statistics.

76-A:4 Obligation of State. The sums due to local tax collectors under the provisions of this chapter shall be the obligation of the state and not subject to collection and enforcement under RSA80. No owner of residential real estate granted an education homestead allowance against local school taxes shall be held liable for the sums required to be paid from the education homestead allowance fund.

9 Information on Tax Bills. Amend RSA 76:11-a, I and II to read as follows:

I. The tax bill which is sent to every person taxed, as provided in RSA 76:11, shall show the rate for municipal, school and county taxes separately, the assessed valuation of all lands and buildings for which said person is being taxed, ***the amount of any education homestead allowance***, and the right to apply in writing to the selectmen or assessors for an abatement of the tax assessed as provided under RSA 76:16. The department of revenue administration shall compute for each town and city the rates which are to appear on the tax bills and shall furnish the required information to the appropriate town or city.

II. The tax bill shall also contain a statement informing the taxpayer of the types of tax relief for which the taxpayer has the right to apply. The following statement shall be considered adequate:

"If you are elderly, disabled, blind, a veteran, or veteran's spouse, ***are the owner of your principal place of residence***, or are unable to pay taxes due to poverty or other good cause, you may be eligible for a tax exemption, credit, abatement, ***homestead allowance***, or deferral. For details and application information, contact (insert title of local assessing officials or office to which application should be made)."

This statement shall be prominent and legible, and may either be printed on the tax bill itself, or on a separate sheet of paper

enclosed with the tax bill. A municipality may in its discretion choose to include more detailed information about the eligibility criteria for different forms of tax relief, provided, however, that the information in the above statement shall be considered a minimum.

10 Unorganized Places; Reference to Education Homestead Allowance Added. Amend RSA198:16, III to read as follows:

III. The county commissioners shall, following receipt of ~~the~~ taxes collected under this section ***and any sums received as education homestead allowance under RSA 76-A***, pay them to the county treasurer. From time to time, as deemed advisable by the department of education, it shall submit to the county commissioners bills for payment for the costs of education of the children from such unincorporated towns, unorganized places, and towns where by act of the legislature the school districts have been abolished and the education of the children made the responsibility of the state.

11 Constitutionally Adequate Education. The sums of money allocated in this act satisfy the state's duty to provide a constitutionally adequate education.

12 Appropriation; Education Homestead Allowance Reimbursement Fund. The sum of \$1 is appropriated to the education homestead allowance reimbursement fund established in RSA 76-A:2 from the general fund for the fiscal year ending June 30, 2000. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

AMENDED ANALYSIS

This bill sets forth a legislative declaration, supported by constitutional findings, that the NewHampshire supreme court's Claremont II decision nullifying the current tax structure is an unconstitutional violation of the separation of powers mandate under part I, article 37 of the NewHampshire constitution.

The bill also establishes the education homestead allowance against the school taxes assessed on the principal place of residence of taxpayers. The education homestead allowance shall be ½ of the school tax rate applied to a certain amount of the value of real estate. The amount of the allowance including the actual cost of local administration shall be paid by the state from a fund established for the purpose of reimbursing tax collectors and shall be funded by excess general fund revenues and other sums appropriated by the legislature.