

“Decomposed” Australian Ballot Budget Voting Ruled Illegal

Lamoille County Superior Court Judge Dennis Pearson has ruled that it is illegal for Stowe to vote on a “decomposed” budget by Australian ballot, that is, a municipal budget that has been broken into categories such as general government, public safety, recreation, and highway. *Mooney v. Town of Stowe*, 110-5-06 Lecv (December 22, 2006).

On November 7, 2005, the Town of Stowe held a special town meeting to consider an article that would require adoption of the town budget by Australian ballot. At the meeting, the voters amended the article to read as follows:

Shall the Town of Stowe adopt its budget by Australian ballot wherein the budget is decomposed into at least the following categories: General Government, Public Safety, Recreation and Public Lands, and Highway and Infrastructure? Each category shall be voted on separately and contain amounts for proposed operational, capital and debt service expenditures.

Though the amended article passed, the Stowe selectboard disregarded the vote and did not warn the budget for the 2006 annual meeting in the manner specified by the approved article. Thereafter, citizens of Stowe brought suit in the Lamoille Superior Court.

The focus of the Court’s decision was the language of the Australian ballot statute, particularly that portion that addresses budgets, 17 V.S.A. § 2680(c). That statute provides:

(c) Budgets. A vote whether to use the Australian ballot system to establish the budget shall be in substantially the following form:

“Shall (name of municipality) adopt its budget by Australian ballot?”

If a budget voted on by Australian ballot is rejected, the legislative body shall prepare a revised budget. The legislative body shall establish a date for the vote on the revised budget, and shall take appropriate steps to warn a public informational meeting on the budget and the vote. The date of the public informational meeting shall be at least five days following the public notice. The date of the vote shall be at least seven days following the public notice. The vote on the revised budget shall be by Australian ballot and shall take place in the same locations that the first vote was taken. The budget shall be established if a majority of all votes cast are in favor. If the revised budget is rejected, the legislative body shall repeat the procedure in this subsection until a budget is adopted. Once a municipality votes to establish its budget by the Australian ballot system, the vote on the budget shall be taken by Australian ballot until the municipality votes to discontinue use of the system.

The Court held that the amended article deviated substantially from the statutory form and was therefore contrary to the requirements of the statute. The Court went on to justify its decision by stating:

Decomposed budgeting shifts budgeting authority away from the Selectboard and toward individual voters who may wish to veto a specific item without voting for, or against the complete budget. Without decomposed budgeting, the Selectboard can package popular and unpopular spending items together, such that a vote on a constituent part can only be accomplished by a vote on the whole. Voters in such a system take the good with the bad, vote an overall budget up or down, and exercise influence over individual budget items indirectly, by voting on Selectboard members. The intent of § 2680 is to allow secret paper balloting with regard to municipal budgets in those circumstances where voters have properly adopted it, but not to allow voters to arbitrarily change discrete components of the budget process to suit the hot topic(s) of a particular budget year.

The Court explained that while the voters' authority to amend budget line items is one of the "beauties of the traditional Vermont Town meeting," Australian ballot voting cannot afford such flexibility. The approved article was contrary to the statute and therefore illegal.

While the decision in this case was a victory for the Stowe selectboard, the Court's narrow interpretation of 17 V.S.A. § 2680(c) is troubling for municipalities and voters that wish to utilize decomposed Australian ballot budget voting. While not widely used, proponents of decomposed budgeting argue that the method can preserve some of the flexibility of a traditional floor meeting while also allowing the convenience of Australian ballot voting. They also argue that allowing voters to act on specific budget categories can allow selectboards to more accurately measure public support for specific expenditures and minimize the risk of disapproval of the entire budget because of one unpopular budget item.

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(Editor's Note: As a superior court case, this decision applies only to Stowe and other municipalities within Lamoille County. VLCT will be watching this case carefully and will follow its progress in the VLCT News if it is appealed to the Vermont Supreme Court.)

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