

## **SUPREME COURT DECISION COULD AFFECT AUSTRALIAN BALLOT TOWN MEETING BUDGET VOTES**

Municipalities utilizing the Australian ballot system should be aware that the Vermont Supreme Court has ruled that towns do not have the legal authority to vote on “decomposed” budgets by Australian ballot. *Mooney v. Town of Stowe*, 2008 VT 19 (February 8, 2008). There is no statutory definition of a “decomposed” budget, but the *Mooney* case dealt with a Stowe town meeting article that would have required the town budget to be divided into separate Australian ballot articles dealing with general government, public safety, recreation and public lands and highway and infrastructure. The article would also have required that each of these categories be voted upon separately.

The Court held that the statute authorizing Australian ballot budget voting, 17 V.S.A. § 2680(c), “represents an exception to th[e] general method of voting, allowing voters to approve the annual budget by Australian ballot. Nothing in the plain meaning of 2680(c), however, authorizes the Town to present a decomposed budget to be approved by voters by Australian ballot.” According to the Court, the statute requires “a vote on a complete budget,” and voting on separate budget categories, such as general government, public safety, recreation and highway is not allowed. *Id.* at 7.

The Court’s narrow interpretation of 17 V.S.A. § 2680(c) could present a significant problem for several municipalities. It is common practice for municipalities utilizing the Australian ballot system to hold separate votes to approve appropriations for special projects and non-recurring expenditures. Under the *Mooney* decision, this practice is now questionable. The decision may also prohibit the fairly common practice of voting separate general fund and highway fund budgets by Australian ballot.

The timing of the decision could not be worse, as the deadline for posting the warning for town meeting was February 3, 2008, five days before this decision was filed. There is no provision in Vermont law that allows municipalities to amend the town meeting warning after this deadline has passed, nor any provision addressing the circumstance where the law has changed after the posting deadline has passed. *Accordingly, VLCT recommends that municipalities carry forward with their Australian ballot budget votes as they were warned.* If an Australian ballot budget vote is contested on the grounds that it does not comply with the *Mooney* decision, the municipality will have several options available to it, including calling a special meeting to vote on a “recomposed” municipal budget. In the meantime, VLCT will be attempting to secure legislation to ensure that municipal budgets approved at this year’s town meetings will not be invalidated by the *Mooney* decision.

The *Mooney* decision has not yet been published on the Supreme Court’s website. For a copy of the decision, please e-mail Grace Person, Research and Information Assistant, at [gperson@vlct.org](mailto:gperson@vlct.org).

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