

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1667

H. P. 1192

House of Representatives, March 17, 1971

Referred to Committee on Taxation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Bragdon of Perham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT to Encourage Improvement in Forest Growth by Creating a Method of Taxation Based upon the Productivity of Various Classes of Forest Lands.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 20, § 1461-A, additional. Title 20 of the Revised Statutes is amended by adding a new section 1461-A to read as follows:

§ 1461-A. Assessments repealed

The provisions of section 1461 with respect to assessments are repealed. In lieu thereof, said amounts shall be certified to the State Tax Assessor and shall be credited annually to the Unorganized Territory School Fund provided in section 1458.

Sec. 2. R. S., T. 20, § 1479, additional. Title 20 of the Revised Statutes is amended by adding a new section 1479 to read as follows:

§ 1479. Assessments repealed

The provisions of sections 1464 to 1468 and 1470 with respect to assessments are repealed. In lieu thereof, said amounts shall be certified to the State Tax Assessor and shall be credited annually to the Unorganized Territory Capital Working Fund provided in section 1462.

Sec. 3. R. S., T. 23, § 4106, additional. Title 23 of the Revised Statutes is amended by adding a new section 4106 to read as follows:

§ 4106. Assessments repealed.

The provisions of sections 4001, 4051, 4052, 4101, 4102, 4103, 4104 and 4105

with respect to assessments against landowners for the laying out, altering, discontinuing, maintaining and repairing of roads and bridges and the assessment and collection thereof are repealed. In lieu thereof, said amounts shall be certified to the State Tax Assessor and shall be credited annually on the books of the State to the proper fiscal officer of each county as provided in Title 36, section 342.

Sec. 4. R. S., T. 30, § 1204, additional. Title 30 of the Revised Statutes is amended by adding a new section 1204 to read as follows:

§ 1204. Assessments repealed

The provisions of sections 1201 and 1202 with respect to assessments are repealed. In lieu thereof, said amounts shall be certified to the State Tax Assessor and shall be credited annually on the books of the State to the proper fiscal officer of each county as provided in Title 36, section 342.

Sec. 5. R. S., T. 36, § 451, amended. The first sentence of section 451 of Title 36 of the Revised Statutes, as amended by chapter 345 of the public laws of 1965, is further amended to read as follows:

For necessary expenses of local and State Government, a tax is assessed annually at ~~the rate of 15 mills on the dollar~~ a mill rate computed by dividing the total municipal property taxes levied statewide for the previous year as determined by the State Tax Assessor from the annual return of municipal assessors pursuant to section 383, by twice the current state valuation of municipalities upon each municipality, township and each lot and parcel of land not included in any township in the State.

Sec. 6. R. S., T. 36, c. 105, sub-c. 2-A, additional. Chapter 105 of Title 36 of the Revised Statutes is amended by adding a new subchapter 2-A, to read as follows:

**SUBCHAPTER 2-A
TREE GROWTH TAX LAW**

§ 571. Title

This subchapter may be cited as the "Maine Tree Growth Tax Law."

§ 572. Purpose

It has for many years been the declared public policy of the State of Maine, as stated in sections 563 to 565, to tax all forest lands according to their productivity and thereby to encourage their operation on a sustained yield basis. However, the present system of ad valorem taxation does not always accomplish that objective. It has caused inadequate taxation of some forest lands and excessive taxation and forfeiture of other forest lands.

It is declared to be the public policy of this State that the public interest would be best served by encouraging forest landowners to retain and improve their holdings of forest lands upon the tax rolls of the State and to promote better forest management by appropriate tax measures in order to protect this unique economic and recreational resource.

Therefore, this subchapter is enacted for the purpose of taxing forest lands generally suitable for the planting, culture and continuous growth of forest products on the basis of their potential for annual wood production in accordance with the following provisions.

§ 573. Definitions

As used in this subchapter, unless the context requires otherwise, the following words shall have the following meanings:

1. Assessor. "Assessor" means the State Tax Assessor with respect to the unorganized territory and the respective municipal assessors with respect to the organized areas.
2. Average annual net wood production rate. "Average annual net wood production rate" means the estimated average net usable amount of merchantable wood one acre of land is growing in one year.
3. Forest land. "Forest land" means land held primarily for growth of forest products.
4. Forest type. "Forest type" means a stand of trees characterized by the predominance of one or more groups of key species which make up 75% or more of the sawlog volume of sawlog stands, or cordwood in poletimber stands, or of the number of trees in seedling and sapling stands.
5. Hardwood type. "Hardwood type" means forests in which maple, beech, birch, oak and ash, singly or in combination, comprise 75% or more of the stocking.
6. Mixed wood type. "Mixed wood type" means forests in which neither hardwoods nor softwood comprise 75% of the stand but are a combination of both.
7. Nonproductive type. "Nonproductive type" means ledge, marsh, open swamp, bog, water and similar areas which are unsuitable for growing a forest type but which exist within forest lands.
8. Softwood type. "Softwood type" means forests in which pine, spruce, fir, hemlock, cedar and larch, singly or in combination, comprise 75% or more of the stocking.
9. Stumpage value. "Stumpage value" means the average value of standing timber before it is cut expressed in terms of dollars per cord or dollars per thousand board feet, as determined by the board.
10. Value of the annual net wood production. "Value of the annual net wood production" means the average annual net wood production rate per acre for a forest type multiplied by the weighted average of the stumpage values of all species in the type. The proportions of the various species making up the type by counties are to be used in computing the weighted average of the stumpage values of all species in the type and shall be determined with reference to the most recent forest survey reports for the counties in which the land is located.

§ 574. Applicability

This subchapter shall have mandatory application to any parcel of forest land which consists of 25 acres or more and to smaller parcels upon request of the owner or owners.

§ 575. Board; administrative provisions; regulations

There is established a Forest Land Valuation Board, in this subchapter called the "board" which shall consist of the State Tax Assessor, the State Forest Commissioner and the Director of the School of Forest Resources of the University of Maine, and 2 members serving staggered 4-year terms to be appointed by the Governor with the advice and consent of the Council. One of these members shall represent the municipal assessors and one shall represent forest landowners. The initial appointee to the board representing the municipal assessors shall be appointed for a 2-year period; the initial appointee representing the forest landowners shall be appointed for a 4-year period. Thereafter, said appointees shall be appointed to serve 4-year terms and in the event of the death or resignation of such an appointee, the Governor shall make an appointment to the board with the advice and consent of the Council for the unexpired term.

The board shall elect annually, from its own membership, a chairman, secretary and such other officers as it deems necessary. Meetings shall be held at the call of the chairman or at the call of more than $\frac{1}{2}$ of the membership. The board may adopt whatever rules it deems necessary for the conduct of its business. The secretary shall keep minutes of all proceedings of the board, which minutes shall be a public record available and on file in the office of the board. Members of the board shall serve without compensation but shall be reimbursed for all expenses incurred in carrying out their respective responsibilities. A quorum of the board for the transaction of business shall be 3 members. No action shall be taken by the board except upon affirmative vote of 3 members.

The board shall prepare a biennial budget and submit to the Legislature requests for appropriations sufficient to carry out its assigned tasks. The board may contract with municipal, State and Federal Governments or their agencies to assist in the carrying out of any of its assigned tasks. The board is authorized to hire such technical assistance as may be required for the performance of its assigned tasks. The board is authorized to request such technical assistance from the Forestry Department or the Department of Finance and Administration as the respective department may be able to provide.

The board shall adopt and amend such rules and regulations as may be reasonable and appropriate to carry out its responsibilities.

§ 576. Powers and duties

The board shall determine the average annual net wood production rate for each forest type described in section 573, subsections 3 to 5, in each county to be used in determining valuations applicable to forest land under this subchapter, taking into consideration the surveys of the State made from

time to time by the United States Forest Service. The rates shall be established with due regard for local and interim studies of average annual growth rates made by the United States Forest Service, Northeastern Forest Experiment Station of Orono, Maine or by the Maine Forestry Department. The rates shall be determined by the board after passage of this subchapter, and when determined shall remain in effect without change for each county through the property tax year ending March 31, 1980. In 1979 and in every 10th year thereafter, the board shall review and set such rates for the following 10-year period in the same manner.

The board shall determine the stumpage value for each forest type described in section 573, subsections 3 to 5, applicable in each county after passage of this subchapter and in each even-numbered year thereafter, taking into consideration the prices upon sales of sound standing timber of that forest type in that county during the previous 2 calendar years, the accessibility of the stumpage, risk of loss, marketability and such other considerations as the board deems appropriate. The board shall also determine the annual income value for the forest type described in section 573, subsection 6, applicable in each county after passage of this subchapter and in each even-numbered year thereafter, taking into consideration such considerations as the board deems appropriate.

The board shall determine annually the appropriate capitalization rate to be applied, taking into consideration expenses, taxes and a fair return on investment and such other considerations as the board deems appropriate.

After the board has made the foregoing determinations it shall determine the 100% valuation per acre for each forest type for each county and shall state the wood production rates, values and capitalization rate used to compute same.

The board shall hold one or more public hearings, with such reasonable notice to the public as the board shall determine, upon the foregoing matters to be determined, shall provide for a transcript thereof, and shall issue an order or orders stating said determinations on or before June 1st of the applicable year. The board shall give public notice of such orders in such manner as the board determines reasonable.

The board shall certify and transmit such orders to the State Tax Assessor and to the municipal assessors of each municipality with respect to forest land therein on or before November 1st of each year, commencing November 1, 1972.

§ 577. Assessment of tax

1. Organized areas. The municipal assessors shall adjust the board's 100% valuation per acre for each forest type for their county by whatever ratio, or percentage of current just value, is then being applied to other property within the municipality to obtain the assessed values. Commencing April 1, 1973, forest land in the organized areas subject to taxation under this subchapter shall be taxed at the property tax rate applicable to other property in the municipality, which rate shall be applied to the assessed values so determined.

2. Unorganized territory. The State Tax Assessor shall adjust the Board's 100% valuation per acre for each type for each county to 50% or by such other ratio or percentage as is then being used to determine the state valuation applicable to other property in the unorganized territory to obtain the assessed values. Commencing April 1, 1973, forest land in the unorganized territory subject to taxation under this subchapter shall be taxed at the state property tax rate provided in section 451, applicable to other property in the unorganized territory, which rate shall be applied to the assessed values so determined. Upon collection by the State Tax Assessor, such taxes shall be deposited in the General Fund in accordance with section 342.

§ 578. Schedule, investigation

The owner or owners of any parcel of forest land subject to taxation under this subchapter shall submit a signed schedule in triplicate on or before November 1, 1972, and at such other times as the assessor may require, to the assessor upon a form to be prescribed by the State Tax Assessor, identifying the land to be taxed hereunder, listing the number of acres of each forest type, showing the location of each forest type and representing that the land is held primarily for growth of forest products.

The assessor shall determine whether the land is subject to taxation hereunder and what forest type is applicable. The land shall be so taxed until it is reclassified or is withdrawn from under this subchapter.

The assessor or the assessor's duly authorized representative may enter and examine the forest lands under this subchapter for tax purposes and may examine into any information submitted by the owner or owners.

Upon notice in writing by certified mail, return receipt requested, any such owner or owners shall appear, either in person or by authorized agent, before the assessor, at such reasonable time and place as the assessor may designate and answer such questions or interrogatories as the assessor may deem necessary to obtain material information about said lands.

If the owner or owners of any parcel of forest land subject to taxation under this subchapter fail to submit the schedules under the foregoing provisions of this section or fail to provide information after notice duly received as provided under this section, such owner or owners shall be deemed to have waived all rights of appeal pursuant to sections 581 and 582 for the next property tax year.

If the assessor determines that land under this subchapter does not meet the requirements of this subchapter, the assessor may withdraw the land from taxation under this subchapter according to section 580. Any lands so withdrawn under this subchapter shall be withdrawn from such taxes at the end of the property tax year in which the actual withdrawal is made and on the following April 1st shall be returned to taxation under the Maine statutes relating to the taxation of real property.

§ 579. Reclassification

Land subject to taxes under this subchapter may be reclassified by the assessor upon application of the owner with a proper showing of the reasons justifying such reclassification or upon the initiative of the respective assessor where the facts justify same.

§ 580. Withdrawal

The owner of forest lands subject to this subchapter may at any time apply to withdraw any parcel from taxation under this subchapter. Such application made in writing and giving the reasons for withdrawal shall be approved by the assessor subject to the imposition of a penalty equal to the tax which would have been imposed over the 5 years preceding such change of use had such real estate been assessed at its highest and best use less all taxes paid on said real estate over the preceding 5 years, and interest at the legal rate. Once approved, the lands shall be relieved of the requirements of this subchapter immediately and shall be returned to taxation under the Maine Statutes relating to the taxation of real property to be so taxed on the following April 1st.

§ 581. Appeal from board

1. Petition for reconsideration. Any person aggrieved by any order of the board may petition the board for a reconsideration of that order within 30 days of the issuance of that order. If a petition for reconsideration is filed within said period, the board shall reconsider the matter and if petitioner has so requested in his petition, shall grant said petitioner an oral hearing and shall give the petitioner at least 15 day's notice of the time and place thereof. For cause shown, the board may extend the time and filing of such petition. The board may amend or reaffirm its orders as it sees fit and may order a refund in whole or in part of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid since the changed rate or values. In the event of any change in rates or values, the rate or value as so changed shall remain in effect until the next review period.

2. Appeal to Superior Court. Any person aggrieved by the decision upon such petition may, within 30 days after notice thereof from the board, appeal therefrom to the Superior Court in the county where the land is located. Notice of the appeal shall be ordered by the court and trial shall be held without a jury in the manner and with the rights provided by law in other civil actions so heard. The court shall receive in evidence in any proceeding hereunder a transcript of the proceedings before the board and a copy of the board's order and shall receive such further evidence as the court in its discretion determines proper. The court may enter a judgment affirming or nullifying such order in whole or in part, or remanding the cause to the board upon such terms as the court may direct; and the court may order the refund in whole or in part, of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid since the changed rate. In the event of any change in rates or values on appeal, the rate or value as so changed shall remain in effect until the next review period. An appeal may be taken to the law court as in other actions.

§ 582. Appeal from assessor

Actions of an assessor under this subchapter shall be subject to review by the Superior Court by appeal within 30 days after notice thereof to the Superior Court in the county where the land is located as provided in section 581, subsection 2, this appeal provision being in addition to any other procedure for appeal.

§ 583. Construction

This subchapter shall be broadly construed to achieve its purpose. The invalidity of any provision shall be deemed not to affect the validity of other provisions.

Sec. 7. R. S., T. 36, §§ 1141-1145, repealed. Sections 1141 to 1145 of Title 36 of the Revised Statutes, as amended, are repealed.

Sec. 8. R. S., T. 36, § 1146, additional. Title 36 of the Revised Statutes is amended by adding a new section 1146 to read as follows:

§ 1146. Unorganized territory

The State Tax Assessor shall determine annually the state valuation of property in the unorganized territory for each county, and shall multiply such valuation by the mill rate certified for each county pursuant to Title 30, section 254, which amounts shall be credited annually on the books of the State to the proper officer of each county as provided in section 342.

Sec. 9. R. S., T. 12, § 1608, additional. Title 12 of the Revised Statutes is amended by adding a new section 1608, to read as follows:

§ 1608. Unorganized territory

The provisions of this subchapter X, with respect to the annual Maine Forestry District tax and the assessment and collection thereof, shall not be applicable to property in the unorganized territory. In lieu thereof, an amount equal to the state valuation of said property, multiplied by 8½ mills, shall be credited annually to the separate account provided in section 1607.

Fiscal Note

It is estimated that this legislation will produce at least as much revenue as is presently produced by the taxation of forest lands; and that it will produce somewhat more revenue depending upon the board's determinations pursuant to the Act.

STATEMENT OF FACT

This bill proposes a "Maine Tree Growth Tax Law" to tax all forest lands, in both the organized and unorganized areas, on a productivity basis. It applies to any parcel of forest land of 25 acres or more and to smaller parcels upon request of the owner.

It divides forest lands into softwood, hardwood, mixed wood and non-productive types. It establishes a Forest Land Valuation Board which is directed to determine the 100% valuation per acre for each forest type based upon the economic productivity of those forest lands.

Upon certification of this information to the respective municipal assessors for the organized areas, they will adjust the board's 100% valuation by whatever percentage of current just value is then being applied to other property within the municipality and, commencing April 1, 1973, will apply the municipal property tax rate to those assessed values. In the unorganized territory, the State Tax Assessor will adjust the board's 100% valuation to 50% or by such other percentage as is then being used to determine the state valuation applicable to other property within the unorganized territory, and commencing April 1, 1973, those assessed values will be taxed at the state property tax rate.

The bill sets the state property tax at a mill rate computed by dividing the total municipal property taxes levied statewide for the previous year by twice the current state valuation of municipalities.

The other existing taxes applicable to the unorganized territory: namely, the Forest District Tax (or equivalent Forest Fire Tax), County Tax, School Operating Tax, School Capital Tax, Road Tax, Fire Protection Tax and Public Service Tax, are replaced.

The bill provides that the municipal assessors will receive the owner's forest land schedules and determine whether the land is forest land under this Act.

Forest lands may be withdrawn from under this Act subject to imposition of a penalty equal to the tax which would have been imposed over the 5 years preceding such change of use had the property been assessed at its highest and best use less all taxes paid over the preceding 5 years, with interest at the legal rate, as required by the Constitutional Amendment approved by referendum last fall.

The purpose of this legislation is to put forest taxation throughout the State of Maine on a uniform economic productivity basis. This would have 2 major effects. It would tax forest lands on a basis calculated to motivate good forestry practice, to maximize forest growth and to maximize the economic productivity of our forest lands. It would also serve to maximize the revenues to the State. This legislation provides the foundation for a strong growing forest industry with maximum benefit to the citizens of Maine.