

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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**Legislative Document**

**No. 1862**

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H. P. 1384

House of Representatives, April 3, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Martin of Eagle Lake.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT Reforming the Administration of the Property Tax and Replacing  
the Tax on Inventories with an Increased Corporate Income Tax.**

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

**Sec. 1. R. S., T. 5, § 283, sub-§ 7, additional.** Section 283 of Title 5 of the Revised Statutes, as amended by section 3 of chapter 615 of the public laws of 1971, is further amended by adding a new subsection 7 to read as follows:

7. **Bureau of Property Taxation.** The Bureau of Property Taxation, the head of which shall be the State Director of Property Taxation.

**Sec. 2. R. S., T. 30, § 5056, additional.** Title 30 of the Revised Statutes is amended by adding a new section 5056 to read as follows:

§ 5056. **Reimbursement to municipalities for revenue loss due to certain personal property tax exemptions**

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following words shall have the following meanings.

A. **Exempted personal property.** "Exempted personal property" shall mean the personal property exempted in Title 36, section 655, subsection 1, paragraphs A, B, C and D.

B. **Revenue loss.** "Revenue loss" shall be construed to mean the actual tax assessed with respect to the exempted personal property, as defined, for the tax year beginning April 1, 1973.

2. **Reimbursement for revenue loss.** The Treasurer of State shall reimburse each municipality on or before December 15th, annually, for any reve-

nue loss due to personal property exempted under Title 36, section 655, subsection 1, paragraphs A, B, C and D, as follows:

A. In 1974, each municipality shall be paid 80% of its revenue loss directly and 20% of the aggregate loss of all municipalities shall be added to and redistributed to each municipality in accordance with section 5055, providing for state-municipal revenue sharing.

B. In 1975, each municipality shall be paid 60% of its revenue loss directly and 40% of the aggregate loss of all municipalities shall be added to and redistributed to each municipality in accordance with section 5055, providing for state-municipal revenue sharing.

C. In 1976, each municipality shall be paid 40% of its revenue loss directly and 60% of the aggregate loss of all municipalities shall be added to and redistributed to each municipality in accordance with section 5055, providing for state-municipal revenue sharing.

D. In 1977, each municipality shall be paid 20% of its revenue loss directly and 80% of the aggregate loss of all municipalities shall be added to and redistributed to each municipality in accordance with section 5055, providing for state-municipal revenue sharing.

E. For the tax year beginning April 1, 1977, and thereafter, the aggregate revenue loss for all municipalities shall be redistributed to each municipality in accordance with section 5055, providing for state-municipal revenue sharing.

Sec. 3. R. S., T. 36, c. 4, additional. Title 36 of the Revised Statutes is amended by adding a new chapter 4 to read as follows:

#### CHAPTER 4

##### BUREAU OF PROPERTY TAXATION

###### § 71. Bureau; director

The Bureau of Property Taxation, as heretofore created and established, shall be under the control and supervision of the State Director of Property Taxation who shall have the power to distribute the duties given to the bureau among such divisions in said bureau as he may deem necessary for economy and efficiency in administration and may add to or eliminate the number of such divisions and may employ such deputies, assistants and employees as may be necessary, subject to the Personnel Law.

###### § 72. Responsibilities; duties, employees

The Bureau of Property Taxation and the State Director of Property Taxation shall exercise such powers and responsibilities heretofore vested in the State Tax Assessor relating to property taxes as may be transferred to same by the State Tax Assessor with the advice and consent of the Commissioner of Finance and Administration.

###### § 73. Recommendations

The State Director of Property Taxation shall, in addition to his other duties, prepare recommendations and specific legislation to carry out such

recommendations with respect to improved property tax administration at both State and local levels. He shall so report to the next regular legislative session and to each regular legislative session thereafter.

**Sec. 4. Transitional period; amendatory clause.** The State Director of Property Taxation shall exercise the powers and responsibilities, determined by the Commissioner of Finance and Administration in relationship to property taxes, heretofore vested in the State Tax Assessor, after the transfer is made of such powers and responsibilities to the State Director of Property Taxation by the State Tax Assessor with the advice and written consent of the commissioner. The transfer of such powers and responsibilities shall be made from time to time as circumstances warrant and shall be completed on or before July 1, 1975. Upon such delegation there shall be simultaneously transferred such funds, employees, equipment and records as will meet and be property to carry out said delegated powers and responsibilities. Upon the transfer of a power or responsibility from the State Tax Assessor to the State Director of Property Taxation, wherever in the Revised Statutes the words "State Tax Assessor" appear in respect to such power or responsibility they shall mean "State Director of Property Taxation".

**Sec. 5. R. S., T. 36, § 565, repealed.** Section 565 of Title 36 of the Revised Statutes, as enacted by section 1 of chapter 426 of the public laws of 1965, is repealed.

**Sec. 6. R. S., T. 36, § 583, sub-§§ 2 and 3, repealed and replaced.** Subsections 2 and 3 of section 583 of Title 36 of the Revised Statutes, as enacted by section 8 of chapter 616 of the public laws of 1971, are repealed and the following enacted in place thereof:

2. **Appeal to State Board of Assessment Review.** Any person aggrieved by the decision upon such petition may, within 30 days after notice thereof from the municipal assessor, appeal therefrom to the State Board of Assessment Review established by section 844.

**Sec. 7. R. S., T. 36, § 603, sub-§ 1, ¶ B, repealed.** Paragraph B of subsection 1 of section 603 of Title 36 of the Revised Statutes, is repealed.

**Sec. 8. R. S., T. 36, § 603, sub-§ 2, ¶ A, repealed and replaced.** Paragraph A of subsection 2 of section 603 of Title 36 of the Revised Statutes is repealed and the following enacted in place thereof:

**A. Portable mills.**

**Sec. 9. R. S., T. 36, § 603, subsection 2, ¶ B, repealed.** Paragraph B of subsection 2 of section 603 of Title 36 of the Revised Statutes is repealed.

**Sec. 10. R. S., T. 36, § 603, sub-§ 2, ¶ G, amended.** Paragraph G of subsection 2 of section 603 of Title 36 of the Revised Statutes, as amended by section 2 of chapter 235 of the public laws of 1971, is further amended to read as follows:

**G.** All camp trailers, as defined in section 1481 ~~except those taxed as stock in trade.~~

**Sec. 11. R. S., T. 36, § 603, sub-§§ 4 and 5, repealed.** Subsections 4 and 5 of section 603 of Title 36 of the Revised Statutes, as amended, are repealed.

**Sec. 12. R. S., T. 36, § 608, repealed.** Section 608 of Title 36 of the Revised Statutes is repealed.

**Sec. 13. R. S., T. 36, § 655, sub-§ 1, repealed and replaced.** Subsection 1 of section 655 of Title 36 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

**1. Personal property**

**A. Industrial inventories including raw materials, goods in process and finished work on hand;**

**B. Stock in trade, including inventory held for resale by a distributor, wholesaler, retail merchant or service establishment;**

**C. Agricultural produce and forest products including logs, pulpwood, woodchips and lumber;**

**D. Livestock, including farm animals, neat cattle and fowl;**

**E. The household furniture, including television sets and musical instruments of each person in any one household; and his wearing apparel, farming utensils and mechanical tools necessary for his business;**

**F. All radium used in the practice of medicine;**

**G. Property in the possession of a common carrier while in interstate transportation or held en route awaiting further transportation to the destination named in a through bill of lading;**

**H. Vessels built, in the process of construction, or undergoing repairs, which are within the State on the first day of each April and are owned by persons residing out of the State. "Vessels" as used in this paragraph shall not be construed to include pleasure vessels and boats;**

**I. Pleasure vessels and boats in the State on the first day of each April whose owners reside out of the State, and which are left in this State by the owners for the purpose of repair or storage, except those regularly kept in the State during the preceding year;**

**J. Personal property in another state or country and legally taxed there.**

**K. Vehicles exempt from excise tax in accordance with section 1483;**

**L. Snowmobiles as defined in Title 12, section 1971;**

**M. All farm machinery used exclusively in production of hay and field crops to the aggregate actual market value not exceeding \$5,000, excluding motor vehicles. Motor vehicles shall mean any self-propelled vehicle;**

**N. Water pollution control facilities and air pollution control facilities as defined in section 656, subsection 1, paragraph E.**

**Sec. 14. Effective date.** Section 13 shall be effective April 1, 1974.

**Sec. 15. R. S., T. 36, §§ 843-A and 843-B, repealed.** Sections 843-A and 843-B of Title 36 of the Revised Statutes, as enacted by section 2 of chapter 426 of the public laws of 1965, are repealed.

Sec. 16. R. S., T. 36, § 844, repealed. Section 844 of Title 36 of the Revised Statutes is repealed.

Sec. 17. R. S., T. 36, §§ 844-A to 844-L, additional. Title 36 of the Revised Statutes is amended by adding 12 new sections 844-A to 844-L, to read as follows:

#### § 844-A. Board of Assessment Review

There is established a State Board of Assessment Review, which for administrative purposes shall be in the Bureau of Property Taxation, but which shall be an independent administrative tribunal.

#### § 844-B. Definitions

As used in section 844-B to 844-L, unless the context otherwise indicates, the following words shall have the following meanings.

1. Assessors. "Assessors" shall mean the municipal board of assessors, or single assessor, as the case may be.
2. Board. "Board" shall mean the State Board of Assessment Review.
3. Chairman. "Chairman" shall mean the Chairman of the State Board of Assessment Review.

#### § 844-C. Composition

The board shall consist of a chairman and a panel of not more than 12 associate members, 4 of whom shall be appraisers, 4 real estate brokers and 4 attorneys, all of whom shall be appointed by the Governor, with the advice and consent of the Council. Vacancies shall be filled for the unexpired term in the same manner as appointments to the full term. The initial appointments shall be divided into 3 equal classes having staggered terms of one, 2 and 3 years. Thereafter all appointments shall be made for 3 years. The chairman shall be appointed for a period of 3 years.

#### § 844-D. Jurisdiction

The board shall have jurisdiction of all appeals from decisions of assessors and local boards of assessment review. The board may affirm, reverse or modify any determination of assessors or local boards of assessment review, when acting upon a protested municipal assessment. It may order a refund, all or part of any taxes, costs or interest thereon, which have been erroneously or unjustly paid.

#### § 844-E. Assignment of hearing

Three members of the board shall constitute a quorum to hear and act upon abatement appeals. Upon receipt of the notice of appeal, the chairman shall select from the panel 3 members to hear the appeal. The chairman shall select no more than one member from each professional group appointed to the panel and shall otherwise base his choice upon geographic convenience and availability. The chairman shall be a member of each hearing panel where convenient. Where property subject to the tax is forest land, as defined in section 564, the Forest Commissioner, or his designee, shall be selected as one of the members of the panel, in lieu of the appraiser-repre-

sentative, with power to act coextensive with other members of the panel. The chairman shall give fifteen days notice of the time and place of the hearing by registered or certified mail to the protesting taxpayer and the assessors of the municipality involved.

#### § 844-F. Place of hearing

A hearing, in the absence of agreement by the parties to the contrary, shall take place in the county where the land involved in the appeal is situated. The county commissioners of each county shall upon reasonable notice, from the chairman, provide suitable accommodations for hearing in the county courthouse.

#### § 844-G. Appeal to State Board of Assessment Review

Any taxpayer dissatisfied with the disposition of his protested assessment, by assessors or local boards of assessment review, may appeal such disposition to the board by filing with the assessors, a certified copy of the notice. A filing fee of \$10 shall be paid by the protesting taxpayer to the board at the time of filing the notice of appeal. Such notice of appeal shall be filed with the board and served upon the assessors within 30 days of the disposition from which the appeal is taken. Where the property subject to the tax is forest land, as defined in section 564, an additional copy of the notice of appeal shall be filed with the Forest Commissioner within the 30 day period provided for.

#### § 844-H. Hearing procedure

The chairman or any member of the board may administer oaths, may summons and examine witnesses, require by subpoena the production of any returns, books, papers, documents, correspondence or other evidence pertinent to the matter under inquiry, at any designated place of hearing and may authorize the taking of a deposition before any person competent to administer oaths. In carrying out its duties, the board shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure. It shall admit all testimony having reasonable probative value but shall exclude immaterial, irrelevant and unduly repetitious testimony. The board shall hear and determine issues of fact and law, but a determination of assessor or local boards of assessment review shall be affirmed unless contrary to the evidence. The board shall render its decision within 30 days of completion of each respective hearing. The decision of the board shall be certified forthwith to the assessors of the municipality where the tax was assessed and to the protesting taxpayer.

#### § 844-I. Production of documents

At the request of the protesting taxpayer or the assessors of the municipality involved, the board shall summon witnesses or require the production of any returns, books, papers, documents, correspondence and other evidence pertinent to the matter under inquiry. Any witness summoned or whose deposition is taken shall be entitled to the same fees as witnesses in the Superior Court.

**§ 844-J. Evidence**

A proven deviation of 10% or more from the relevant municipal assessment ratio as certified by the State Tax Assessor under section 383 shall be substantial evidence that the protested assessment is incorrect.

**§ 844-K. Compensation**

The Governor, with the advice and consent of the Council, shall set the rate of pay on a per diem basis which each member of the board shall receive and they shall be remunerated for all expenses necessarily incurred in the performance of their official duties.

**§ 844-L. Appeal to the Superior Court**

A protesting taxpayer and the assessors may appeal the decision of the State Board of Assessment Review to the Superior Court as provided for in section 846, in the county where the property is located.

Sec. 18. R. S., T. 36, § 846, reenacted. Section 846 of Title 36 of the Revised Statutes as repealed by section 125-A of chapter 622 of the public laws of 1971, is reenacted to read as follows:

**§ 846. —hearing**

The appeal provided for in section 844-L shall be taken within 30 days after notice of the decision from which the appeal is being taken, or within 30 days after the application shall be deemed to have been denied. Notice thereon shall be ordered by said court, and said appeal shall be tried, heard and determined by the court without a jury in the manner and with the rights provided by law in other civil cases so heard.

Sec. 19. R. S., T. 36, § 848, amended. Section 848 of Title 36 of the Revised Statutes is amended to read as follows:

**§ 848. —trial**

The appeal provided for in ~~sections 844 and 845~~ section 844-L shall be tried at the first term held not less than 10 days after the notice has been given, unless delay shall be granted at the request of the municipality for good cause, and said court shall, if requested by the municipality, advance the case upon the docket so that it may be tried and decided with as little delay as possible. Either party may appeal from the decisions and rulings of the court upon matters of law arising upon the trial, in the same manner and with the same effect as is allowed in the Superior Court in the trial of cases without a jury.

Sec. 20. R. S., T. 36, § 849, amended. The first paragraph of section 849 of Title 36 of the Revised Statutes is amended to read as follows:

If upon the trial provided for in sections 845 to 848 it appears that the applicant has complied with all provisions of law, he may be granted such abatement as the court deems reasonable ~~under the same circumstances as an abatement may be granted by the county commissioners.~~



**Sec. 21. R. S., T. 36, § 5200, repealed and replaced.** Section 5200 of Title 36 of the Revised Statutes, as enacted by section F of chapter 154 of the private and special laws of 1969, is repealed and the following enacted in place thereof:

**§ 5200. Imposition and rate of tax**

A tax is hereby imposed under the entire taxable income of every "taxable corporation." The tax shall consist of a normal tax computed under subsection 1 and a surtax computed under subsection 2.

1. Normal tax. 6% of the Maine net income of the corporation;
2. Surtax. 4% of Maine net income in excess of \$25,000.

**Sec. 22. R. S., T. 36, § 5201, repealed.** Section 5201 of Title 36 of the Revised Statutes, as enacted by section F of chapter 154 of the private and special laws of 1969, is repealed.

**Sec. 23. Appropriation.** There is appropriated from the General Fund to the Department of Finance and Administration, Bureau of Property Taxation, the sum of \$84,695 for the fiscal year ending June 30, 1974 and the sum of \$15,075,755 for the fiscal year ending June 30, 1975 to carry out the purposes of this Act. The breakdown shall be as follows:

	1973-74	1974-75
FINANCE AND ADMINISTRATION, DEPARTMENT OF		
Bureau of Property Taxation		
Personal Services	(4) \$40,000	(4) \$45,000
All Other	5,000	5,000
Capital Expenditures	5,000	—
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	\$50,000	\$50,000
Bureau of Property Taxation		
State Board of Assessment Review		
Personal Services	\$29,125	\$30,755
All Other	5,000	5,000
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	\$34,695	\$35,755
TREASURER OF STATE, DEPARTMENT OF		
All Other		\$14,990,000

**FISCAL NOTE**

It is estimated that the increased corporate income tax rates provided for in Section 21 of the bill would produce \$10,900,000 a year.

**STATEMENT OF FACT**

It is the purpose of this Act to restructure property tax administration on a more responsive, efficient and uniform basis. It provides for the establish-

ment of a separate Bureau of Taxation, (Section 1 and Section 3), the creation of a new State Board of Assessment Review (Section 5, Section 16 to Section 20) and reimbursement to municipalities (Section 2), for the elimination of taxes on inventories (Section 7 to Section 13), to be financed by an increased corporate income tax (Section 21 and Section 22).

The creation of a separate Bureau of Property Taxation in the Department of Finance and Administration, to which the property tax functions of the present Bureau of Taxation would be transferred during the course of the biennium, is essential in order to provide more effective assistance to the Executive and to the Legislature in the consideration of property tax matters, to provide leadership at the State level, to improve local property tax administration, and to carry out in a satisfactory manner the property tax functions — i.e., State valuation of municipalities and administration of property taxes in the unorganized territory — which are presently the direct responsibility of the State.

The bill also creates a new State Board of Assessment Review, an independent, impartial Board composed of members having professional training in the economic and legal aspects of property tax assessment. It proposes to provide aggrieved taxpayers of a prompt, efficient and inexpensive method of determining just value of property tax assessments. It is designed to afford to an aggrieved taxpayer an opportunity to appear, present his case and have his rights fully protected without the necessity of obtaining special assistance.

It is the intent of this legislation to eliminate the personal property tax upon inventories and to substitute the revenue loss by the increase in the corporate income tax. The municipalities will be reimbursed for the revenue loss by the State.

The impact of the personal property tax on Maine industry is both adverse and inequitable. Maine industry suffers a competitive disadvantage in competing with neighboring states. Some major manufacturers are storing their products outside of Maine because of the effect of the tax. Maine, as a result, is losing some fabricating warehousing and distribution activity as a source of employment to neighboring states. The tax on inventory has no significant relationship with profits. The inventories earn no profits while awaiting sale.

The corporate income tax reflects a more equitable distribution of the tax burden.