

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2276

H. P. 1796

House of Representatives, January 2, 1974

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Emery of Rockland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT to Clarify Certain Property Tax Statutes.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, section 36 of chapter 620 of the public laws of 1973 provided that the law as of June 30, 1973 should remain effective as to municipalities not incorporated into primary assessing areas; and

Whereas, this provision has created uncertainty as to the application of various amendments to the property tax statutes, unrelated to the purpose intended to be accomplished by said section 36; and

Whereas, the following legislation is vitally necessary to eliminate such uncertainties; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 30, § 2060, sub-§ 6, reenacted. Subsection 6 of section 2060 of Title 30 of the Revised Statutes, as amended and as last repealed by section 2 of chapter 620 of the public laws of 1973, is reenacted to read as follows:

6. Board of assessment review.

A. Any town choosing a single assessor may adopt a board of assessment review at a meeting of its legislative body held at least 60 days before the annual meeting.

B. The board of assessment review shall consist of 3 members to be appointed by the selectmen. The town, when adopting such board, may fix the compensation of the members. One member shall be appointed for one year, one member for 2 years and one member for 3 years, and thereafter the term of each new member shall be 3 years.

C. Any town adopting a board of assessment review may discontinue such board by vote, in the same manner and under the same conditions as in adopting such board.

D. Towns of 5,000 or more residents may by ordinance provide for a board of assessment review consisting of 5 or 7 members. The terms of office of members shall not exceed 5 years and initial appointments shall be such that the terms of office of no more than 2 members shall expire in any single year.

E. Any town may by ordinance designate a board of appeals appointed pursuant to section 2411 as the board of assessment review.

F. A board of assessment review shall elect annually from its membership a chairman and a secretary and shall be subject to the procedural requirements of section 2411, subsection 3.

G. This subsection shall not apply in any municipality which is incorporated into a primary assessing area.

Sec. 2. R. S., T. 30, § 5351, sub-§ 2, reenacted. Subsection 2 of section 5351 of Title 30 of the Revised Statutes, as amended by section 2 of chapter 14 of the public laws of 1967 and as repealed by section 3 of chapter 620 of the public laws of 1973, is reenacted to read as follows:

2. Board of assessment review.

A. Any city choosing a single assessor may adopt a board of assessment review by vote of the city council at least 30 days before the annual city election.

B. The board of assessment review shall consist of 3 members to be appointed by the city council.

C. The city council, when adopting such board, may fix the compensation of the members of such board. One member shall be appointed for one year, one member for 2 years and one member for 3 years, and thereafter the term of each new member shall be 3 years.

D. Any city adopting a board of assessment review may discontinue such board by vote of the city council at least 30 days before the annual city election, in which case the board shall cease to exist at the end of the municipal year.

E. Cities of 5,000 or more residents may by ordinance provide for a board of assessment review consisting of 5 or 7 members. The terms of office of members shall not exceed 5 years and initial appointments shall be such that the terms of office of no more than 2 members shall expire in any single year.

F. This subsection shall not apply in any city which is incorporated into a primary assessing area.

Sec. 3. R. S., T. 36, § 202, repealed. Section 202 of Title 36 of the Revised Statutes, as repealed and replaced by section 1 of chapter 579 of the public laws of 1969, is repealed.

Sec. 4. R. S., T. 36, § 206, repealed and replaced. Section 206 of Title 36 of the Revised Statutes, as repealed and replaced by section 8 of chapter 620 of the public laws of 1973, is repealed and the following enacted in place thereof:

§ 206. Compensation of assessors, collectors and treasurers

Primary assessing areas and municipalities shall pay to assessors a reasonable compensation and actual expenses incurred in complying with the requirement of this Title. Primary assessing areas and municipalities shall pay to collectors, treasurers and assessors a reasonable compensation and actual expenses incurred in attending meetings and schools called by the State Tax Assessor.

Sec. 5. R. S., T. 36, § 207, repealed. Section 207 of Title 36 of the Revised Statutes is repealed.

Sec. 6. R. S., T. 36, §§ 310-314 and 318, repealed and replaced. Sections 310 to 314 and 318 of Title 36 of the Revised Statutes, as enacted by section 10 of chapter 620 of the public laws of 1973, are repealed and the following enacted in place thereof:

§ 310. Examination

The Bureau of Property Taxation shall hold qualifying examinations for assessors at least twice each year.

1. Additional examinations. Such additional examinations may be held as the State Tax Assessor deems necessary.

2. Content and type. The State Tax Assessor shall determine the content and type of examination and in so doing may consult with professional assessing organizations and others.

3. Test applicant's knowledge. The examination shall, among other things, test the applicant's knowledge of applicable law and techniques of assessing.

4. Level of attainment. The State Tax Assessor shall determine what level of attainment on the examination shall constitute a passing of the test. If more than one type of examination is utilized, the various portions of the examination may be weighted and if only one examination is used, various

portions of it may be weighted. The weighting factor must be specified in writing in the agency's rules and regulations.

§ 311. Classes of certification

The State Tax Assessor may establish 3 classes of certification if he deems it desirable.

The State Tax Assessor may issue provision certificates to permit persons to complete basic training requirements while on the job. Such provisional certificates shall be limited to one year, renewable annually for a maximum of 3 years.

The State Tax Assessor may issue probationary certificates to persons who have the necessary formal education, but who have no practical experience in assessing. Such probationary certificates shall be limited to one year, renewable annually for 2 years.

The State Tax Assessor shall issue a certificate of eligibility to any applicant who has demonstrated through appropriate examination that he is fully qualified to perform the assessing function.

Certificates of eligibility shall remain in force for 5 years, provided the assessor completes at least 16 hours of additional classroom training each year.

The State Tax Assessor shall establish fees to be charged for the 3 types of certificates as well as the fee for examination and reexamination. Such licensing and examination fees may be revised from time to time and shall be paid into the General Fund of the State. Such fees shall be reasonable.

Any certificate issued by the State Tax Assessor may for cause be revoked after hearing. In revoking a certificate, the State Tax Director shall give the certificate holder 30 days' written notice of the time and place of the hearing and of the reasons therefor. An order of revocation shall be effective immediately.

§ 312. Penalty

After July 1, 1980, no persons shall be eligible to perform the duties of an assessor of a primary assessing area unless he shall have been certified in the manner provided. Any person convicted of violating this section shall be punished by a fine of not less than \$100 nor more than \$250.

§ 313. Tenure

An assessor certified as provided shall serve a probationary period of 2 years. Thereafter he shall have tenure and may only be removed as provided.

An assessor having tenure in any primary assessing area, upon moving to another primary assessing area, shall serve a probationary period of no longer than one year, but such probationary period may be waived by agreement of the parties. Records as to tenure of assessors shall be kept by the Bureau of Property Taxation.

§ 314. Removal

Assessors may be removed from office as follows:

1. Probationary term. Any assessor serving a probationary term may be removed by the executive committee upon 30 days' written notice stating the reason therefor.

2. Tenure. An assessor having tenure may be removed for cause by the executive committee on the form and manner provided for the removal of town managers in Title 30, section 2313.

3. Certification revoked. An assessor whose certification is revoked by the State Tax Assessor shall be immediately removed from office.

4. Lapsed or expired certification. Any assessor whose certification has lapsed or expired.

§ 318. Training of assessors

The State Tax Assessor may establish, either on his own initiative or in conjunction with professional or educational agencies, or both, a program of training to meet the needs of the State of Maine for a sufficient supply of competently trained assessors. Where possible, such training shall be conducted by an institution of higher education. For such purposes, the State Tax Assessor may designate what programs either within or outside the State are acceptable for these training purposes.

Primary assessing units may expend funds for educational and training activities, including reimbursement for tuition, travel, meals, lodging, textbooks and miscellaneous instructional expenses. In addition, upon authorization of the executive committee of the primary assessing area, leaves of absence with pay may be approved for this purpose. The Bureau of Property Taxation may expend funds for training activities.

Sec. 7. R. S., T. 36, §§ 382-383, repealed and replaced. Section 382, as last amended by section 11 of chapter 620 and section 242 of chapter 625, both of the public laws of 1973 and section 383, as last amended by section 12 of chapter 620 and section 243 of chapter 625, both of the public laws of 1973, of Title 36 of the Revised Statutes, are repealed and the following enacted in place thereof:

§ 382. Failure of assessor to furnish information

If any municipal assessor or assessor of a primary assessing area fails to appear before the State Tax Assessor or his agent as provided in this Title, or to transmit to him the lists named within 10 days after the mailing or publication of notice or notices to them to so appear or transmit said lists, the State Tax Assessor may in his discretion report the valuation of the estates and property liable to taxation in the town so in default, as he shall deem just and equitable.

§ 383. Assessors' annual return to State Tax Assessor

The municipal assessors and the assessors of primary assessing areas shall, at such times as the State Tax Assessor may require, make and return on blank lists which shall be seasonably furnished by the said State Tax Asses-

sor, including annually, the land value, exclusive of buildings and all other and collection of tax as may be needed in the work of the State Tax Assessor, including annually, the land value, exclusively of buildings and all other improvements, and the valuation of each and every class of property assessed in their respective jurisdiction, with the total valuation and percentage of taxation, together with a statement to the best of their knowledge and belief of the ratio, or percentage of current just value, upon which the assessment is based, and itemized lists of property upon which the town has voted to affix a value for taxation purposes.

Sec. 8. R. S., T. 36, § 384, repealed and replaced. Section 384 of Title 36 of the Revised Statutes, as amended by chapter 14 of the public laws of 1969 and section 13 of chapter 620 of the public laws of 1973 is repealed and the following enacted in place thereof:

§ 384. Investigation of valuation; actions and prosecutions; reassessment orders; appeals

The State Tax Assessor shall, at his own instance or on complaint made to him, diligently investigate all cases of concealment of property from taxation, of undervaluation, of overvaluation, and of failure to assess property liable to taxation. He shall bring to the attention of assessors all such cases in their respective jurisdictions. He shall direct proceedings, actions and prosecutions to be instituted to enforce all laws relating to the assessment and taxation of property and to the liability of individuals, public officers and officers and agents of corporations for failure or negligence to comply with the laws governing the assessment or taxation of property, and the Attorney General and county attorneys, upon the written request of the State Tax Assessor, shall institute such legal proceedings as may be necessary to carry out this Title. The State Tax Assessor shall have power to order the reassessment of any or all real and personal property, or either, in any jurisdiction where in his judgment such reassessment is advisable or necessary to the end that all classes of property in such jurisdiction shall be assessed in compliance with the law. Neglect or failure to comply with such orders on the part of any assessor or other official shall be deemed willful neglect of duty and he shall be subject to the penalties provided by law in such cases. Provided a satisfactory reassessment is not made by the assessors, then the State Tax Assessor may employ assistance from within or without the jurisdiction where such reassessment is to be made, and said jurisdiction shall bear all necessary expense incurred. Any person aggrieved because of such reassessment shall have the same right of petition and appeal as from the original assessment. The State shall be permitted to intervene in any action resulting from an order of the State Tax Assessor pursuant to this section.

Sec. 9. R. S., T. 36, § 486, sub-§ 5, amended. The 2nd sentence of subsection 5 of section 486 of Title 36 of the Revised Statutes, as enacted by section 10 of chapter 620 of the public laws of 1973, is repealed as follows: ~~Three members of the Board of Assessment Review shall constitute a quorum to hear and act upon state valuation appeals.~~

Sec. 10. R. S., T. 36, § 486, sub-§ 6, amended. The 2nd paragraph of subsection 6 of section 486 of Title 36 of the Revised Statutes, as enacted by

section 10 of chapter 620 of the public laws of 1973, is repealed.

Sec. 11. R. S., T. 36, § 486, sub-§ 8, amended. Subsection 8 of section 486 of Title 36 of the Revised Statutes, as enacted by section 10 of chapter 620 of the public laws of 1973, is amended to read as follows:

8. Compensation. Board members serving on an abatement ~~or state valuation~~ appeal shall be entitled to \$50 per diem and necessary expenses while in actual performance of their duties.

Sec. 12. R. S., T. 36, § 706, repealed and replaced. Section 706 of Title 36 of the Revised Statutes, as amended by sections 3, 4 and 5 of chapter 579 of the public laws of 1969 and section 23 of chapter 536 and section 16 of chapter 620, both of the public laws of 1973, is repealed and the following enacted in place thereof:

§ 706. Taxpayers to list property, notice, penalty, verification

Before making an assessment, the assessors or the chief assessor of a primary assessing area shall give seasonable notice in writing to all persons liable to taxation in the municipality or primary assessing area to furnish to the assessors or chief assessor of a primary assessing area true and perfect lists of their polls and all their estates, not by law exempt from taxation, of which they were possessed on the first day of April of the same year.

The notice to owners may be by mail directed to the last known address of the taxpayer or by any other method that provides reasonable notice to the taxpayer.

If any person after such notice does not furnish such list, he is thereby barred of his right to make application to the assessors, chief assessor of the primary assessing area or any appeal therefrom for any abatement of his taxes, unless he furnishes such list with his application and satisfies them that he was unable to furnish it at the time appointed.

The assessors or the chief assessor of the primary assessing area may require the person furnishing the list to make oath to its truth, which oath any of them may administer, and may require him to answer in writing all proper inquiries as to the nature, situation and value of his property liable to be taxed in the State; and a refusal or neglect to answer such inquiries and subscribe the same bars an appeal, but such list and answers shall not be conclusive upon the assessors or the chief assessor of the primary assessing area.

If the assessors or the chief assessor of the primary assessing area fail to give the notice required herein, the taxpayer is not barred of his right to make application for abatement, provided that upon demand the taxpayer shall answer in writing all proper inquiries as to the nature, situation and value of his property liable to be taxed in the State; and a refusal or neglect to answer such inquiries and subscribe the same bars an appeal, but such list and answers shall not be conclusive upon the assessor or the chief assessor of the primary assessing areas.

Sec. 13. R. S., T. 36, § 710, amended. Section 710 of Title 36 of the Revised Statutes, as amended by section 9 of chapter 66 and section 20 of

chapter 620, both of the public laws of 1973, is further amended to read as follows:

§ 710. Overlay

The assessors or, **in primary assessing areas**, the municipal officers may assess on the estates such sum above the sum necessary for them to assess, not exceeding 5% thereof as a fractional division renders convenient, and certify the fact to their municipal treasurer.

Sec. 14. R. S., T. 36, §§ 711 and 712, amended. Sections 711 and 712 of Title 36 of the Revised Statutes, as amended by section 20 of chapter 620 of the public laws of 1973, are further amended to read as follows:

§ 711. Assessment record

The assessors or, **in primary assessing areas**, the municipal officers shall make a record of their assessment and of the invoice and valuation from which it was made. Before the taxes are committed to the officer for collection, they shall deposit such record, or a copy of it, with the municipal clerk, there to remain.

§ 712. Certificate of assessment

When the assessors or, **in primary assessing areas**, the municipal officers have assessed any tax and committed it to the tax collector, they shall return to the appropriate treasurer a certificate thereof with the name of such officer.

Sec. 15. R. S., T. 36, § 713, amended. The first 2 paragraphs of section 713 of Title 36 of the Revised Statutes, as amended by section 10 of chapter 66 and section 20 of chapter 620, both of the public laws of 1973, are further amended to read as follows:

Supplemental assessments may be made within 5 years from the last assessment date whenever it is determined that any estates liable to taxation have been omitted from assessment or any tax on estates is invalid or void by reason of illegality, error or irregularity in assessment. ~~The In municipalities not a part of a primary assessing area, the assessors municipal assessors and the chief assessor of primary assessing areas~~ **In municipalities** for the time being may, by a supplement to the invoice and valuation and the list of assessments, assess such estates **for their due proportion of such tax**, according to the principles on which the previous assessment was made. **In primary assessing areas, the chief assessor may, by a supplement to the valuation list, certify the valuation of such estates to the municipal officers who shall assess such estates according to the principles upon which the previous assessment was made.**

Such supplemental assessments shall be committed to the ~~municipal officers or collector~~ **municipal officers** for the time being ~~as the case may be~~ with a certificate as provided in sections 709 and 709-A stating that they were invalid or void or omitted and that the powers in the previous warrant, naming the date of it, are extended thereto. The tax collector has the same power, and is under the same obligation to collect them, as if they had been contained in the original list.

Sec. 16. R. S., T. 36, § 753, amended. The first sentence of section 753 of Title 36 of the Revised Statutes, as amended by section 21 of chapter 620 of the public laws of 1973, is further amended to read as follows:

Every tax collector shall receive a warrant from the assessors or, **in the case of primary assessing areas**, the municipal officers ~~as the case may be~~ for the collection of taxes and shall faithfully obey its directions.

Sec. 17. R. S., T. 36, § 754, amended. Section 754 of Title 36 of the Revised Statutes, as amended by section 24 of chapter 620 of the public laws of 1973, is further amended to read as follows:

§ 754. —lost or destroyed

When a warrant for the collection of taxes has been lost or destroyed, the assessors or, **in the case of primary assessing areas**, the municipal officers ~~as the case may be~~ may issue a new warrant, which shall have the same force as the original.

Sec. 18. R. S., T. 36, § 755, repealed and replaced. Section 755 of Title 36 of the Revised Statutes, as amended by section 25 of chapter 620 of the public laws of 1973, is repealed and the following enacted in place thereof:

§ 755. Bond

The municipal officers shall require each tax collector to give a corporate surety bond for the faithful discharge of his duty, to the inhabitants of the municipality, in the sum, and with such sureties as the municipal officers approve. The tax collector may furnish a bond signed by individuals if such individuals submit to the municipal officers a detailed sworn statement as to their personal financial ability, which shall be found acceptable by the municipal officers.

Such bond shall, after its approval and acceptance, be recorded by the clerk in the municipal records, and such record shall be prima facie evidence of the contents of such bond, but a failure to so record shall be no defense in any action upon such bond.

Sec. 19. R. S., T. 36, § 760, amended. The first sentence of section 760 of Title 36 of the Revised Statutes, as amended by section 27 of chapter 620 of the public laws of 1973, is further amended to read as follows:

~~Municipal officers or assessors~~, or **municipal officers in the case of primary assessing areas**, shall specify in the collector's warrant the date on or before which the tax collector shall perfect his collections.

Sec. 20. R. S., T. 36, § 763, amended. The last sentence of the first paragraph of section 763 of Title 36 of the Revised Statutes, as amended by section 28 of chapter 620 of the public laws of 1973, is further amended to read as follows:

Said officers may appoint another tax collector, and the assessors or, **in the case of primary assessing areas**, the municipal officers shall make a new warrant and deliver it to him with said lists, to collect the sums due thereon,

and he shall have the same power in their collection as the original tax collector.

Sec. 21. R. S., T. 36, § 801, amended. Section 801 of Title 36 of the Revised Statutes, as amended by section 31 of chapter 620 of the public laws of 1973, is further amended to read as follows :

§ 801. Sheriff may collect taxes

If at the time of the completion of the assessment a tax collector has not been chosen or appointed, or if the tax collector neglects to collect a state or county tax, the sheriff of the county shall collect it, on receiving an assessment thereof, with a warrant under the hands of the municipal ~~officers or~~ assessors, or the case of primary assessing areas, the municipal officers, or the assessors appointed in accordance with section 705, as the case may be.

Sec. 22. R. S., T. 36, § 841-A, amended. Section 841-A of Title 36 of the Revised Statutes, as enacted by section 32 of chapter 620 of the public laws of 1973, is amended by inserting before the first paragraph a new paragraph to read as follows :

This section shall apply only to primary assessing areas.

Sec. 23. R. S., T. 36, § 841-A, amended. The first paragraph of section 841-A of Title 36 of the Revised Statutes, as enacted by section 32 of chapter 620 of the public laws of 1973, is amended to read as follows :

The municipal officers ~~of municipalities comprising a primary assessing area~~ may, on their own knowledge or on written application therefor, make such abatements as they believe reasonable in the real and personal ~~and poll~~ taxes on all persons who, by reason of infirmity or poverty, are in the judgment of the municipal officers unable to contribute to the public charges.

Sec. 24. R. S., T. 36, § 899, amended. The 2nd sentence of section 899 of Title 36 of the Revised Statutes, as amended by section 34 of chapter 620 of the public laws of 1973, is further amended to read as follows :

The assessors or, in the case of primary assessing areas, the municipal officers shall deliver to him the uncollected assessments, with a proper warrant for their collection, and he shall proceed as prescribed.

Sec. 25. P. L., 1973, c. 620, § 36, repealed. Section 36 of chapter 620 of the public laws of 1973 is repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.