

MAINE STATE LEGISLATURE

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(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1687

H. P. 1566 House of Representatives, June 14, 1979.
The Committee on Taxation suggested and ordered printed.
EDWIN H. PERT, Clerk
Presented by Mrs. Post of Owls Head.
Cosponsors: Mr. J. Martin of Eagle Lake, Mr. Hall of Sangerville, and Mr.
Leonard of Woolwich.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Revise the Tree Growth Tax Law.

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

Sec. 1. 36 MRSA § 573, sub-§ 3, as amended by PL 1973, c. 308, § 2, is repealed and the following enacted in its place:

3. Forest land. "Forest land" means land used primarily for growth of trees for commercial use, but shall not include ledge, marsh, open swamp, bog, water and similar areas, which are unsuitable for growing a forest product even though those areas may exist within forest lands. Land shall be included, upon presentation by the landowner of evidence that the land is being used primarily for growth of trees for commercial use, as follows:

- A.** A sworn statement from the landowner establishing that the landowner is engaged in the business of selling or processing forest products;
- B.** A sworn statement from a registered professional forester that the land is being managed primarily for growth of trees for commercial use; or
- C.** A written forest management plan for the land, accompanied by a sworn statement from the landowner that he is following the plan.

Land which would otherwise be included within this definition shall not be excluded because of multiple use for public or private recreation or because it is under contract with a state or federal agency restricting its use for timber production. "Commercial use," as used in this subchapter, shall include an owner's use of wood harvested from the owner's land.

Sec. 2. 36 MRSA § 574, as amended by PL 1973, c. 308, § 3, is further amended by adding a new paragraph to read:

This subchapter shall not apply to any land within the coastal shoreland area. For the purposes of this subchapter "coastal shoreland area" shall mean that land within 250' of the normal high water mark of any tidal water. Tidal water is that within the rise and fall of the tide, except water above any fishway or dam where the fishway or dam is the dividing line between tidewater and freshwater. Land mandatorily excluded from classification under this subchapter by this section shall not be subject to any penalty upon exclusion.

Sec. 3. 36 MRSA § 576, first paragraph, first sentence, as amended by PL 1973, c. 460, § 18, is further amended to read:

The State Tax Assessor shall determine the average annual net wood production rate for each forest type described in section 573, subsections 5 to 7, in each county **or region** to be used in determining valuations applicable to forest land under this subchapter, on the basis of the surveys of average annual growth rates applicable in the State made from time to time by the United States Forest Service or by the Maine Forestry Bureau.

Sec. 4. 36 MRSA § 576, 2nd paragraph, as enacted by PL 1971, c. 616, § 8, is amended to read:

The State Tax Assessor shall determine the average stumpage value for each forest type described in section 573, subsections 5 to 7, applicable in each county, or in such alternative forest economic regions as he may designate, 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 area during the previous ~~2~~ calendar ~~years~~ year, and such other considerations as he deems appropriate.

Sec. 5. 36 MRSA § 576, 5th paragraph, as amended by PL 1977, c. 694, § 678, is further amended to read:

The State Tax Assessor shall hold one or more public hearings upon the foregoing matters to be determined, shall provide for a transcript thereof, and shall issue a rule or rules stating said determinations on or before October 1, 1978 and on or before October 1st ~~biennially~~ each year thereafter.

Sec. 6. 36 MRSA § 576-B, as amended by PL 1977, c. 694, §§ 680 to 685, is further amended by inserting before the first sentence a new sentence to read:

Until February 1, 1982, the percentage factor by which the growth rates set by the State Tax Assessor pursuant to section 576 shall be reduced to reflect the growth which can be extracted on a sustained basis shall be 10%.

Sec. 7. 36 MRSA § 576-B, first sentence, as amended by PL 1977, c. 694, § 680, is further amended to read:

By February 1, 1978 1982, and every 4th even-numbered year thereafter, the State Tax Assessor shall determine and prescribe by rule the percentage factor by which the growth rates set by him pursuant to section 576 shall be reduced to reflect the growth which can be extracted on a sustained basis.

Sec. 8. 36 MRSA § 578, sub-§ 1, first sentence, as repealed and replaced by PL 1977, c. 282, is amended to read:

The municipal assessors or chief assessor of a primary assessing area shall adjust the State Tax Assessor's 100% valuation per acre for each forest type of their county or region by whatever ratio, or percentage of current just value, is then being applied to other property within the municipality to obtain the assessed values.

Sec. 9. 36 MRSA § 578, sub-§ 1, 3rd sentence, as repealed and replaced by PL 1977, c. 282, is repealed.

Sec. 10. 36 MRSA § 578, subsection 1, as last amended by PL 1977, c. 720, § 3, is further amended by inserting after the first paragraph the following:

For tax years beginning on or after January 1, 1979, a municipality's annual reimbursement shall be the greater of the amounts computed as follows:

A. For any tax year in which a municipality's aggregate tax assessed on lands classified under this subchapter is less than the aggregate tax that could have been assessed, but for this subchapter, on the same lands if the lands were assessed according to the undeveloped acreage used in the state valuation then in effect, adjusted by the municipal ratio, the amount shall equal the taxes lost, with adjustments for any state school subsidies that may be affected by changes in municipal valuations caused by the use of undeveloped acreage valuation, to the extent of 35% for the tax year beginning in 1979, 50% for the tax year beginning in 1980, 70% for the tax year beginning in 1981 and 90% for the tax years beginning in 1982 and thereafter of such loss upon proof of the facts in form satisfactory to the State Tax Assessor; or

B. The amount shall equal in the tax year beginning in 1979, 90%; 1980, 70%; in 1981, 50%; and in 1982 and thereafter, 0% of the amount received as reimbursement by the town for the tax year beginning in 1978.

If the amount available for reimbursement is not sufficient to pay all of the approved claims for reimbursement, the State Tax Assessor shall prorate claims in proportion to the dollar amount of approved claims timely filed and on hand at the time of proration. Any such deficiency shall be made up and reimbursed in the subsequent year.

Sec. 11. 36 MRSA § 578, sub-§ 1, 2nd paragraph, as last repealed and replaced by PL 1977, c. 282, is repealed.

Sec. 12. 36 MRSA § 578, sub-§ 1, 3rd, 4th and 5th paragraphs, as enacted by PL 1977, c. 720, § 3, are repealed.

Sec. 13. 36 MRSA § 578, sub-§ 1-A is enacted to read:

1-A. Funding of reimbursement. If sufficient moneys are not available from general revenue sources to fund the reimbursement to municipalities provided in subsection 1, the Legislature shall provide the reimbursement from alternative revenue sources.

Sec. 14. 36 MRSA § 578, subsection 2, as amended by PL 1973, c. 308, § 8, is repealed and the following enacted in its place:

2. Unorganized territory. The State Tax Assessor shall use 100% valuation per acre for each type for each county or region to obtain the assessed value for the unorganized territory.

Sec. 15. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act.

1979-80

FINANCE AND ADMINISTRATION,

DEPARTMENT OF

Bureau of Taxation

Tree Growth Tax Reimbursement

All Other

\$1,000,000

Any balance of this amount shall not lapse but shall be carried forward from year to year to be expended for the same purpose.

FISCAL NOTE

This bill will require an appropriation of \$1,000,000 for fiscal year 1979-80.

STATEMENT OF FACT

This bill excludes coastal shoreland from application of the Tree Growth Tax Law and requires proof of intent to use tree growth land for commercial timber purposes.

The bill defines commercial use to include an owner's use of timber for his own purposes in connection with management plan requirement. It permits regional as well as county establishment of wood production rates. Stumpage values are to be determined annually and the discount factor is set at 10% to February 1, 1982, at which time it is set by the State Tax Assessor biennially along with the capitalization rate.

Reimbursement to municipalities for the tax shift is phased in 40% for 1979, 60% for 1980, 75% for 1981 and 90% for 1982 and thereafter. At the same time a claiming municipality is given the option of electing reimbursement under the 1978 formula, i. e., 90% of it in 1979, 70% in 1980 and 50% in 1981. Should funding not be available from the General Fund for reimbursement this bill directs the Legislature to seek alternative tax sources. Funding is increased in the first year of the biennium and eliminated in the 2nd.