

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1525

H. P. 1325

House of Representatives, April 7, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative J. Martin of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Create a Tax on Mining Companies and to Amend the Statute on Mining on State Lands.

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

36 MRSA c. 369 is enacted to read:

CHAPTER 369

MINING COMPANIES

§ 2801. Findings

The Legislature finds that mineral resources are fundamental to modern civilization, mineral resources have historically been a primary source of economic wealth, development of this country's mineral resources has involved only a small portion of its land area and may be expected to involve a similarly small land area in Maine, mining has impacts on natural and cultural environments, Maine's nonrenewable resources are part of a heritage shared by all of its citizens and mineral tax laws have a significant impact on the profitability of mining and the industry's ability to enter into and sustain production.

§ 2802. Purpose

It is the policy of the State to encourage the sound and orderly development of Maine's mineral resources under reasonable constraints. The object of this policy is to assure that the actions associated with development of these resources will:

1. **Expansion and diversification of the economy.** Encourage expansion and diversification of the Maine economy and create new employment opportunities for Maine people;
2. **Regulations.** Adhere to sound and effective land use, environmental, safety and health regulations administered through appropriate public agencies;
3. **Planning and development assistance.** Afford planning and development assistance to Maine communities and regions that will be significantly affected by mineral resource development; and
4. **Practical scheme of taxation.** Establish a practical scheme of taxation on mining companies which will:
 - A. Permit such companies to operate mines profitably within the State;
 - B. Share with the State through taxation a reasonable portion of the value of the nonrenewable mineral resource as it is extracted; and
 - C. Encourage the economically efficient extraction of minerals.

§ 2803. Tax

Every mining company shall pay to the State Tax Assessor, for the use set forth in this chapter, an annual tax for the privilege of conducting mining within the State. This tax shall be in place of state and local property taxes upon mining property which are assessable under chapter 105, subchapters II and III, and chapter 115.

§ 2804. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Community.** "Community" means any municipality or political subdivision of this State, including, but not limited to, townships, cities, villages, unorganized townships, plantations, counties, administrations, entities or instrumentalities created pursuant to Title 30, chapters 203, 204 and 239, quasi-municipal corporations and special purpose districts, such as water districts.
2. **Exploration.** "Exploration" means an examination of an area for the purpose of discovering the presence of minerals with techniques which include all of the manual, mechanical, electronic or chemical methods of determining the presence, size and quality of a mineral deposit.
3. **Grants.** "Grants" means a donation of something having a monetary value, including, but not limited to, cash, personal property, real property or fixtures.
4. **Minerals.** "Minerals" means all naturally occurring metallic ore minerals and products derived therefrom by means of extraction, milling, reduction and refining.

5. **Mining.** “Mining” means all of the extractive processes and other beneficial processes necessary to remove and prepare for market minerals, including the extraction, severing, milling or transport of minerals or any of the methods used in the preparation of a known and presumed economically extractable deposit of minerals. Mining shall not include exploration.

6. **Mining company.** “Mining company” means any person, association or corporation, or combination thereof, which engages in the mining of any minerals in this State.

7. **Mining property.** “Mining property” means any real or personal property in this State owned or used by a mining company to facilitate the mining of minerals in this State. Mining property does not include general administrative buildings or facilities not located on the parcel of land, leased or owned, upon which the extraction, milling or transport of minerals is conducted.

8. **Municipal purpose.** “Municipal purpose” means any purpose which the governing body of the community holds is for the good of the community and which is not expressly forbidden by the community’s charter or by the laws of this State.

9. **Tax.** “Tax” means any sums of money due the State, no matter how computed or collected.

§ 2805. Amount of tax

The amount of the annual tax on mining companies shall be 1% of gross value.

In no case may the tax be less than 1.5% of the state valuation of the fixtures, buildings and surface improvements which are mining property, as defined in this chapter, in the State owned or used by a mining company to facilitate the mining of minerals in the State.

§ 2806. Delinquent taxes

1. **Lien.** A lien is created on all personal property, as defined in chapter 105, of a mining company for such taxes and for expenses incurred in accordance with subsection 2, and such property may be sold for the payment of the taxes and expenses at any time after April 15th, of the year in which the excise taxes are due. When the time for the payment of the tax to the State Tax Assessor has expired, and it is unpaid, the State Tax Assessor may issue his warrant to the sheriff of the county, requiring him to levy by distress and sale upon the personal property of the mining company, and the sheriff or his deputy shall execute the warrants. Any balance remaining after deducting taxes and necessary additions made in accordance with this chapter shall be returned to the owner or person in possession of the property, or the State Tax Assessor may certify the unpaid taxes to the Attorney General, who shall bring a civil action in the name of the State.

2. **Information; expenses.** If any mining company neglect or refuse to comply with the requirements of this chapter, the State Tax Assessor may secure the necessary information by such methods as he deems advisable, and the necessary

expense incurred in securing the information shall be added to the tax assessed against the mining company and paid to the State Tax Assessor with the tax.

3. Notice; recording of certificate. On or before May 5th annually, the State Tax Assessor shall send, by mail to the last known address of each mining company which has failed to pay its taxes, a notice in writing, containing a description of any real estate as defined in chapter 105, owned by the mining company, the amount of unpaid taxes, interest to April 15th, and alleging that a lien is claimed on the real estate for payment of the taxes, interests and costs, with a demand that payment be made by the next June 15th. If the taxes and interest to date of payment and costs are not paid by June 15th, the State Tax Assessor shall record between June 15th, the State Tax Assessor shall record between June 15th and June 30th, in the registry of deeds of the county or registry district where the real estate lies a certificate signed by the State Tax Assessor, setting forth the name or names of the mining company, the description of the real estate, the amount of unpaid taxes, interest to June 15th, the amount of costs, and a statement that demand for payment of the taxes has been made, and that the taxes, interest and costs remain unpaid. The costs to be charged by the register of deeds for the filing shall not exceed \$3.

4. Creation of mortgage. The filing of the certificate provided for in subsection 3 in the registry of deeds shall be deemed to create and shall create a mortgage on the real estate to the State, having priority over all other mortgages, liens, attachments and encumbrances of any nature, and shall give to the State all the rights usually incident to a mortgage, except that the mortgagee shall not have any right of possession of the real estate until the right of redemption has expired.

Part payments accepted during the redemption period shall not interrupt or extend the redemption period or in any way affect the foreclosure proceedings. If the total amount necessary for redemption is not paid before the mortgage is foreclosed, the mortgagor shall be entitled to a refund of the part payments made after the filing of the certificate provided for in subsection 3.

If the mortgage, together with interest and costs, is not paid by the July 15th of the following year, the filing of such certificate in the registry of deeds as provided for in this section and subsection 3, the mortgage shall be deemed to have been foreclosed and the right of redemption to have expired.

The filing of the certificate in the registry of deeds shall be sufficient notice of the existence of the mortgage.

In the even that the tax, interest and costs, together with \$1 for recording the discharge, is paid within the period of redemption, the State Tax Assessor shall discharge the mortgage in the same manner as is now provided for the discharge of real estate mortgages and shall record the discharge in the appropriate registry of deeds.

Each owner may pay for his proportionate ownership in any real estate whether in

common or not and, upon filing with the State Tax Assessor a certificate containing a suitable description of the property on which he desires to pay the taxes and where the property is located and paying the amount due, together with interest and costs, shall receive a certificate from the State Tax Assessor discharging the taxes on the fractional part or ownership upon which the payment is made.

5. Inventory; sale; moneys. A copy of the lien certificate shall be filed in the Office of the State Tax Assessor. On March 15th annually, whenever the State has acquired title to real estate under this section, the State Tax Assessor shall certify to the State Controller the amount of unpaid taxes, interest and costs then outstanding. Unpaid state taxes, interest and costs on the books of the State shall be charged against the General Fund.

The State Tax Assessor shall, whenever the State acquires title to the real estate, cause an inventory to be made of all the real estate. The inventory shall contain a description of the real estate, amount of accrued taxes by years and such other information as may be necessary in the administration and supervision of the real estate. A copy of the inventory shall be furnished to the Commissioner of Conservation prior to the convening of the Legislature. The State Tax Assessor shall biennially make a report to the Legislature not later than 15 days after the Legislature convenes. The report shall contain a copy of the inventory of the real estate then owned by the State and such recommendations as to the disposition of this real estate as the State Tax Assessor and the Commissioner of Conservation may wish to make.

The State Tax Assessor shall, after authorization by the legislature, sell and convey any such real estate, but shall, in all cases of sales, except sales to the former owners of the real estate, give public notice of the proposal to sell the real estate and shall ask for competitive bids and shall sell to the highest bidder, with the right of rejecting all bids. No sales of real estate or any stumpage thereon may be made by the State Tax Assessor, except by authorization of the Legislature.

The supervision, administration, utilization and vindication of the rights of the State in real estate shall be vested in the State Tax Assessor until title is conveyed or otherwise disposed of by the Legislature.

All moneys received from the sale or use of the real estate shall be used and disbursed as if it were a portion of the taxes for the year in which the real estate is sold.

6. Civil actions. The State Tax Assessor may bring a civil action in his own name to enforce the lien on real estate created by subsection 3, to secure payment of state taxes assessed under this chapter. Such action shall begin after the expiration of 8 months and within one year after August 1st following the date the taxes were assessed. The proceedings shall be in accordance with section 941, except that the preliminary notice and demand for payment of the tax as provided in section 941, shall not be required.

§ 2807. Use of tax revenues

The tax revenues shall be used as follows:

1. **Reimbursement to municipalities.** The Treasurer of State shall reimburse each community for that amount of money spent for additional services which are the result of any mining operation conducted within a 30-mile radius of the community, together with any property tax revenue loss suffered by each community as a result of the exemption established by this chapter.

A. Services means those services as provided by a community, as defined in section 2804, subsection 1, including, but not limited to, recreational facilities, police protection, fire protection, schools, sewer and water services.

B. The method used for determining the increase in community services is for the governing body of each community to submit an annual accounting of the moneys spent on services. The amount due the community will be the excess of this annual account over the amount of moneys spent on services for the year immediately prior to the year of the commencement of mining operations within a 30-mile radius of the community in question, after deducting the amount of the increase attributable to inflation. In no case may the amount due the community be less than the excess moneys necessary to maintain services accounted for in the previous year or years which have been established as resulting from mining activities. The amount attributable to inflation is to be determined by deducting that percentage of the annual increase, which, according to statistics of the Federal Government showing the rate of inflation for the year in question, is attributable to inflation, from the total amount of the increase. The procedure for calculating community service impacts shall not allow for any building or equipment purchases that would provide for services at a level higher than previous, unless it could be demonstrated that such an increase was directly related to mining activities. The remaining amount of the increase is to be reimbursed to the communities annually before any other disbursements are made.

2. **Donations.** The Treasurer of State shall credit against any amounts due under this section any donations made by any mining companies to and accepted by the community under section 2809.

3. **Mining Trust Fund.** Any remaining funds accrued from the tax after payments to municipalities shall be used to establish a separate trust fund to be known as the "Mining Trust Fund." The proceeds from the Mining Trust Fund will be used to encourage the wise use and reuse of Maine's nonrenewable resources. The disbursement or use shall be determined by the Legislature.

§ 2808. Payment

Whenever any mining company fails to pay any tax, interest or penalty due under this chapter, the Attorney General shall enforce payment of the amount by civil action against the mining company in either the Superior Court in Kennebec

County or in the District Court in the division in which the mining company transacts business.

§ 2809. Grant credit

Any mining company may make grants to any community within a 30-mile radius of any mining operation. These grants may be used for any municipal purpose. The grants shall not be for any building or equipment purchases that would provide for services at a level higher than previous, unless the increase in services are directly related to mining activities. The community has the right to refuse to adopt any grant.

The cash value of any grant may be used as a credit by the mining company against any taxes due the State if the grant is accepted and used by a community. If the entire credit cannot be used in the year the grant or grants are made, that portion of the credit not used will be carried over to the following year or years.

§ 2810. Rules

The State Tax Assessor may promulgate all necessary rules to administer and enforce this chapter. In doing so, the State Tax Assessor shall comply with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

STATEMENT OF FACT

The purpose of this bill is to create a tax on mining companies and provide a mechanism to encourage the sound and orderly development of the state's mineral resources under reasonable constraint.