

MAINE STATE LEGISLATURE

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(Emergency)

(New Draft of H.P. 528, L.D. 636)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1781

H.P. 1342

House of Representatives, June 22, 1983

Reported by the Majority from the Committee on Taxation and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

Reported from the Maine Forest Fire Control Study Commission under Joint Rule 18, pursuant to Public Law 1981, chapter 705, Part H., section 3 of the 110th Legislature.

STATE OF MAINE

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

AN ACT to Amend the Forest Fire Control
Laws and Change the Method of Funding Forest
Fire Control Services.

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

Whereas, the procedure established by this bill must begin this summer in order to provide sufficient revenues for continued state forest fire protection; 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,

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

3 Sec. 1. 5 MRSA §243, sub-§5, as amended by PL
4 1973, c. 537, §2, is repealed.

5 Sec. 2. 12 MRSA §679, as amended by PL 1973, c.
6 460, §17, is repealed.

7 Sec. 3. 12 MRSA §901, first ¶, as amended by PL
8 1975, c. 497, §3, is further amended to read:

9 All the lands in Townships 2, 3, 4, 5 and 6,
10 Range 9 W.E.L.S. and in Townships 3, 4, 5 and 6,
11 Range 10 W.E.L.S., ~~Piscataquis~~ Piscataquis County,
12 and Township 6, Range 8 W.E.L.S., Penobscot County,
13 that have been donated and conveyed to the State of
14 Maine in trust by Percival Proctor Baxter and all
15 lands in ~~said~~ the Townships 2, 3, 4, 5 and 6, Range 9
16 and in Townships 3, 4, 5 and 6, Range 10, and in
17 Township 6, Range 8 and all lands in Piscataquis and
18 Penobscot Counties that hereafter shall be donated
19 and conveyed to the ~~said~~ State by ~~said~~ Percival Proc-
20 tor Baxter in trust for state forest, public park and
21 public recreational purposes are named and shall
22 hereafter be named "Baxter State Park" in honor of
23 the donor, and the same hereafter shall forever be so
24 designated on the official maps and records of the
25 State. They shall be under the joint supervision and
26 control of, and shall be administered by the Director
27 of the Bureau of Forestry, the Commissioner of Inland
28 Fisheries and Wildlife and the Attorney General, and
29 the ~~said~~ commissioner, director and Attorney General
30 shall have full power in the control and management
31 of the same, under the title of Baxter State Park
32 Authority. The authority shall make payments to the
33 Bureau of Forestry in lieu of taxes on the basis of
34 the state-wide annual per acre expenditures for
35 forest fire protection for the last fiscal year for
36 all land within the Baxter State Park area. The
37 authority shall receive moneys available from trust
38 funds established by the donor of the park and shall
39 include fees collected, income from park trust funds
40 invested by the Treasurer of State and other miscel-
41 laneous income derived from the park for maintenance
42 and operation of the park.

1 Sec. 4. 12 MRSA c. 215, sub-c. II, as amended,
2 is repealed.

3 Sec. 5. 12 MRSA c. 215, sub-c. X, as amended, is
4 repealed.

5 Sec. 6. 12 MRSA §8902, first ¶, as enacted by PL
6 1979, c. 545, §3, is amended to read:

7 The director shall appoint a forest fire warden
8 in each organized municipality ~~within the State out-~~
9 ~~side the limits of the Maine Forestry District for~~
10 ~~the control of forest fires.~~ The municipal fire chief
11 shall be appointed as forest fire warden if practi-
12 cable and no other person shall may be appointed
13 without the approval of the municipal officers. All
14 appointed forest fire wardens shall serve at the
15 pleasure of the director and shall be sworn to the
16 faithful discharge of these duties and a certificate
17 thereof shall be returned to the bureau. Whoever has
18 been notified of this appointment shall file with the
19 director his acceptance or rejection within 10 days.
20 The appointed forest fire warden may appoint one or
21 more deputy forest fire wardens subject to approval
22 of the municipal officers.

23 Sec. 7. 12 MRSA §8906, sub-§2, as enacted by PL
24 1973, c. 545, §3, is amended to read:

25 2. Equipment. The director may establish lookout
26 stations connected by telephone and radio, and con-
27 struct, equip and maintain office - storehouse head-
28 quarters for necessary supplies, tools and equipment
29 and provide for any other facilities essential for
30 forest fire control. Within the Maine Forestry Dis-
31 ~~trict~~ unorganized territory the director may, in ad-
32 dition to this subsection, construct and maintain
33 roads and trails.

34 Sec. 8. 12 MRSA §9201, first ¶, as enacted by PL
35 1979, c. 545, §3, is amended to read:

36 Responsibility for the control of forest fires in
37 municipalities ~~outside the Maine Forestry District~~
38 lies in the first instance with the town forest war-
39 dens appointed for ~~such~~ these municipalities by the
40 director. When in the judgment of a forest ranger the

1 situation so warrants, the forest ranger may relieve
2 a town forest fire warden of responsibility for con-
3 trol of a forest fire within a municipality and
4 assume responsibility therefor. Final authority and
5 responsibility for the control of a forest fire shall
6 be that of the forest ranger.

7 Sec. 9. 12 MRSA §9202, first ¶, as enacted by PL
8 1979, c. 545, §3, is amended to read:

9 ~~Within municipalities not members of the Maine~~
10 ~~Forestry District, forest~~ Forest rangers and town
11 forest fire wardens may employ any person considered
12 necessary to assist in fighting forest fires. All
13 called and employed for assistance shall proceed to
14 help control forest fires as directed by the forest
15 ranger or forest fire warden in charge.

16 Sec. 10. 12 MRSA §9204, as enacted by PL 1979,
17 c. 545, §3, is amended to read:

18 §9204. Payment of costs; state reimbursement

19 Municipalities, ~~outside the limits of the Maine~~
20 ~~Forestry District,~~ shall pay for controlling and
21 extinguishing forest fires up to 1/2 of 1% of their
22 state valuation and the State shall reimburse them
23 1/2 these costs incurred by the forest fire warden in
24 charge therein. Reimbursement will not be allowed for
25 use or loss of municipally-owned equipment within the
26 town in which the fire occurred. A ~~town~~ municipality
27 going to the aid of another, even to protect itself,
28 when requested by the state forest ranger in charge,
29 shall, if it requests payment, be paid by the town
30 municipality aided if the total suppression cost of
31 the town municipality is not over 1/2 of 1% of its
32 state valuation.

33 Sec. 11. 12 MRSA §9205, as enacted by PL 1979,
34 c. 545, §3, is amended to read:

35 §9205. Payment of costs beyond 1/2 of 1% of state
36 valuation

37 All forest fire suppression costs in municipali-
38 ties ~~outside the limits of the Maine Forestry Dis-~~
39 ~~trict~~ in an amount greater than 1/2 of 1% of the

1 state valuation of the municipality in which the fire
2 occurred shall be paid by the State. Any municipal-
3 ity, in order to pay labor quickly, may pay beyond
4 1/2 of 1% of its state valuation and submit for full
5 state reimbursement or forward the unpaid bills,
6 approved by the state forest ranger in charge, for
7 payment.

8 Sec. 12. 12 M RSA §9205-A is enacted to read:

9 §9205-A. Payment of costs in the unorganized ter-
10 ritory

11 1. Legislative findings. The Legislature makes
12 the following findings.

13 A. The unorganized territory is a portion of the
14 State which is large in area and small in popu-
15 lation.

16 B. The unorganized territory is without any
17 local government to provide services to protect
18 it from the potential devastation of forest fire.

19 C. Because of the lack of any municipal govern-
20 ment, State Government, as the guardian of the
21 unorganized territory, shall provide forest fire
22 protection services in that area that are above
23 and beyond the level of municipal services which
24 are provided in the rest of the State.

25 D. For 1983, the cost of forest fire protection
26 services provided by the State in the unorganized
27 territory that are above and beyond the level of
28 municipal services provided elsewhere in the
29 State is equal to 9¢ an acre.

30 2. Charge to the unorganized territory. For
31 1983, the unorganized territory shall be charged 9¢
32 an acre for land which is subject to a property tax
33 including rights in public reserved lots. This charge
34 shall be part of the municipal cost component and
35 collected as part of the Unorganized Territory Educa-
36 tional and Services Tax provided under Title 36,
37 chapter 115.

1 Sec. 13. 12 MRSA §9322, sub-§1, as enacted by PL
2 1979, c. 545, §3, is amended to read:

3 1. Permits. No person shall ~~may~~ kindle or use an
4 out-of-door fire in the Maine Forestry District
5 unorganized territory unless a permit has been
6 obtained from the director. The director ~~is auther-~~
7 ~~ized to~~ may issue a permit on lands of another unless
8 the majority ownerships of the land have withdrawn
9 permission in writing to the director.

10 Sec. 14. 12 MRSA §9322, sub-§4, as enacted by PL
11 1979, c. 545, §3, is amended to read:

12 4. Saco River Corridor. For the purpose of issu-
13 ing permits under this section, the lands within
14 Oxford County within the Saco River Corridor, so des-
15 ignated by Private and Special Laws of Law 1973,
16 chapter 150, as amended, shall be ~~considered a part~~
17 ~~of the Maine Forestry District~~ subject to the same
18 requirements and procedures as lands within the
19 unorganized territory.

20 Sec. 15. 12 MRSA §9334, as enacted by PL 1979,
21 c. 545, §3, is amended to read:

22 §9334. Along land bordering on another

23 Whoever, as stumpage owner, operator, landowner
24 or agent, cuts, causes or permits to be cut any
25 forest growth on land which borders land of another
26 outside the limits of the Maine Forestry District
27 unorganized territory or within the Maine Forestry
28 District unorganized territory which borders property
29 outside shall dispose of the slash in the manner de-
30 scribed: All slash resulting from such cutting of
31 forest growth shall not remain on the ground within
32 25 feet of the property line, provided that the
33 director on his own initiative or upon written com-
34 plaint of another declares that the situation consti-
35 tutes a fire hazard.

36 Sec. 16. 12 MRSA c. 807, sub-c. VII is enacted
37 to read:

1 The Land Classification Appeals Board is estab-
2 lished to hear appeals from decisions of municipal
3 tax assessors, chief assessors and the State Tax
4 Assessor acting as assessor of the unorganized ter-
5 ritory relating to the Maine Tree Growth Tax Law ~~or~~,
6 the Farm and Open Space Tax Law or the Forest Fire
7 Suppression Tax Law. The board shall be composed of 4
8 voting members: The Commissioner of Conservation or
9 his designee; the Commissioner of Agriculture, Food
10 and Rural Resources or his designee; the person who,
11 pursuant to section 584, is currently serving on the
12 Forest Land Valuation Advisory Council as the land-
13 owner member; and the person who, pursuant to section
14 584, is currently serving on the Forest Land Valua-
15 tion Advisory Council as the municipal officer. The
16 Commissioner of Finance and Administration or his
17 designee shall serve in an advisory capacity as a
18 nonvoting member and as chairman of the board. In the
19 case of a tie vote, the Commissioner of Finance and
20 Administration or his designee shall vote to break
21 the tie. The landowner member and the municipal offi-
22 cer shall be compensated by the Bureau of Taxation at
23 \$25 per day plus actual expenses. All other members
24 shall be compensated by the agency they represent for
25 actual expenses incurred in the performance of their
26 duties under this section.

27 Sec. 18. 36 MRSA §841-C, 2nd ¶, as enacted by PL
28 1979, c. 666, §21, is amended to read:

29 On receipt of an application for review by the
30 Land Classification Appeals Board, the chairman shall
31 designate a time and place for hearing and make such
32 other arrangements for the hearing as may be neces-
33 sary. The board may summons witnesses, administer
34 oaths, order the production of books, records,
35 papers, instruments and any additional evidence it
36 deems necessary in order to make a decision. The
37 board may affirm, reject or amend determinations of
38 assessors, chief assessors and the State Tax Asses-
39 sor, made pursuant to the Maine Tree Growth Tax Law
40 ~~or~~, the Farm and Open Space Tax Law or the Forest
41 Fire Suppression Tax Law. The board may order a
42 refund in whole or in part of any taxes, costs, pen-
43 alties or interest thereon which have been errone-
44 ously or unjustly paid. If the board fails to give

1 written notice of its decision within 90 days of the
2 filing of such an appeal, the appeal shall be deemed
3 to be denied and the applicant may appeal further as
4 provided, unless the applicant consents in writing to
5 further delay.

6 Sec. 19. 36 MRSA §1603, sub-§1, ¶B, as repealed
7 and replaced by PL 1979, c. 646, §3, is amended to
8 read:

9 B. The cost of services the state funds in the
10 unorganized territory that are funded locally by
11 a municipality; the cost of forest fire protec-
12 tion to be included in the cost component shall
13 be determined in accordance with Title 12,
14 section 1601 9205-A and collected in the same
15 manner as other portions of the municipal cost
16 component; and

17 Sec. 20. 36 MRSA §1605, sub-§2, as repealed and
18 replaced by PL 1979, c. 520, §10, is repealed and the
19 following enacted in its place:

20 2. Disbursements. The treasurer shall withdraw
21 from the fund all sums necessary to pay the expenses
22 attributable to the municipal cost component, includ-
23 ing the amount charged to the fund under Title 12,
24 section 9205-A.

25 Sec. 21. 36 MRSA c. 366 is enacted to read:

26 CHAPTER 366

27 FOREST FIRE SUPPRESSION

28 §2711. Forest fire suppression costs

29 1. Annual tax. An excise tax is assessed
30 against owners of parcels of land containing 100 or
31 more acres of protected land in the 1983 tax year.
32 Ownership and number of acres owned shall be deter-
33 mined as of April 1, 1983. "Protected land" means
34 forest land and other undeveloped land such as blue-
35 berry barrens, swamps, bogs or brushland. It does
36 not include federal, municipal or state-owned land.

1 2. Computation of tax for the 1983 tax year.
2 The State Tax Assessor shall determine annually the
3 total number of acres of protected land subject to
4 the excise tax under this chapter. For the 1983 tax
5 year, he shall divide the total number of acres of
6 protected land into \$3,250,000 and round to the near-
7 est 1/10 of a cent to determine the cents per acre
8 tax. The cents per acre tax shall be multiplied by
9 the number of protected acres in each parcel contain-
10 ing 100 or more acres of protected land to determine
11 the amount of the excise tax to be assessed against
12 each owner.

13 §2712. Identification of parcels

14 1. Parcel. As used in this chapter, unless the
15 context otherwise indicates, "parcel" means a unit of
16 real estate, or contiguous units of real estate under
17 identical ownership, notwithstanding that it is
18 divided by a road, way, railroad, pipeline or municipi-
19 pal or county line.

20 2. Municipal certification. By July 15th, the
21 State Tax Assessor shall notify municipal assessors
22 of the requirements of this chapter and require
23 municipal assessors to make a determination of which
24 landowners within their municipality are subject to
25 taxation under this chapter.

26 By August 1st, municipal assessors shall notify all
27 landowners who may be subject to taxation under this
28 chapter, including landowners whose land borders on a
29 municipal boundary, and require them to supply infor-
30 mation to enable the local assessor to determine the
31 number of acres in parcels containing 100 or more
32 acres. If a landowner does not respond by September
33 1st, he waives his right to appeal the determination
34 made by the municipal assessors.

35 By September 15th, municipal assessors shall review
36 information received from landowners and notify all
37 landowners of their decision concerning the number of
38 acres of protected land in each parcel. Landowners
39 shall have 15 days within which to request a recon-
40 sideration by the municipal assessors.

1 All reconsiderations shall be completed by October
2 15th and the final determination regarding all parcels
3 of land subject to taxation under this chapter
4 shall be certified to the State Tax Assessor. A
5 landowner may appeal a municipality's decision to the
6 Land Classification Appeals Board within 60 days of
7 the municipal assessors final determination. If the
8 board makes a determination that the owner is not
9 subject to taxation under this chapter, the municipi-
10 ality shall notify the State Tax Assessor who shall
11 abate the tax assessed under this chapter. In regard
12 to the unorganized territory, the State Tax Assessor
13 has the same rights and obligations as municipal
14 assessors under this section.

15 Any municipality which certifies to the State Tax
16 Assessor by October 15th, the landowners subject to
17 the tax assessed under this chapter shall be entitled
18 to compensation for administrative costs as provided
19 in section 2715.

20 By October 15, 1983, municipal assessors shall review
21 all land within their municipality and provide to the
22 Forest Fire Advisory Council an estimate of the
23 number of parcels containing at least one acre of
24 protected land and the numbers of acres in each
25 parcel.

26 By September 15, 1984, municipal assessors shall
27 review all land within their municipality and provide
28 to the State Tax Assessor a listing of all persons
29 owning at least one acre of protected land on April
30 1, 1984, and the numbers of acres in each parcel
31 owned by each person listed.

32 §2713. Assessment of tax

33 1. Assessment. By November 15th, the State Tax
34 Assessor shall assess the tax based upon municipal
35 certifications and the State Tax Assessor's review of
36 land in the unorganized territory. The tax shall be
37 due December 31st.

38 2. Supplemental assessment. Within 3 years of
39 an assessment made under this chapter, the State Tax
40 Assessor may make a supplemental assessment if he
41 finds that any previous assessment is incorrect in

1 any material aspect. An assessment may be made at
2 any time with respect to a period for which fraud-
3 ulent information has been supplied.

4 §2714. Enforcement

5 1. Interest and penalty. If any excise tax
6 remains unpaid after it becomes due, it shall draw
7 interest at the rate determined pursuant to section
8 186. A penalty of 10% of the unpaid tax shall be
9 added to the liability of any person who fails to pay
10 the tax when due.

11 2. Lien. There shall be a tax lien to secure
12 the payment of all taxes, penalties and interest
13 assessed under this chapter. If the tax is unpaid
14 when due, the lien shall attach when the tax is due,
15 if the State Tax Assessor follows the procedures pro-
16 vided in Title 12, section 8427, subsection 6.

17 §2715. Compensation to municipalities

18 The State Tax Assessor shall divide the amount of
19 \$180,000 appropriated for municipal compensation by
20 the total number of parcels that were identified by
21 municipalities by October 15th to determine the
22 amount of compensation per parcel due each municipal-
23 ity. This amount shall be multiplied by the number
24 of parcels identified by a municipality to determine
25 the amount of compensation which shall be paid by the
26 State Tax Assessor by November 15th.

27 The State Tax Assessor shall make a report by
28 January 15th, annually, to the Legislature listing
29 the numbers of parcels identified by each municipal-
30 ity and the amount of compensation paid.

31 Sec. 22. Report to the Legislature. The Forest
32 Fire Control Advisory Council shall make a report to
33 the Second Regular Session of the 111th Legislature
34 by January 15, 1984, containing the results of its
35 review of the state's forest fire control activities.
36 The report shall also make recommendations for estab-
37 lishing a method for determining the cost of state
38 first response services in the unorganized territory
39 as well as in any municipalities that do not have a
40 first response capability and shall recommend the

1 appropriate acreage cutoff for the Forest Fire Sup-
2 pression Tax. The report shall include any legis-
3 lation necessary to accomplish its recommendations.

4 Sec. 23. Appropriation. The following funds are
5 appropriated from the General Fund to carry out the
6 purposes of this Act.

	<u>1983-84</u>	<u>1984-85</u>
7		
8	<u>CONSERVATION, DEPARTMENT OF</u>	
9	Forest Fire Advisory Council	
10	All Other	\$5,000 \$5,000
11	<u>FINANCE AND ADMINISTRATION,</u>	
12	<u>DEPARTMENT OF</u>	
13	Bureau of Taxation	
14	Positions	(1)
15	Personal Services	\$ 20,000
16	All Other	5,000
17	Capital Expenditures	500
18	Bureau of Taxation	
19	All Other	\$180,000
20	Compensation to	
21	municipalities	_____
22	Total	\$205,500

23 FISCAL NOTE

24 It is estimated that enactment of this bill will
25 result in the following effect on the General Fund,
26 not including the appropriations provided in section
27 23.

	<u>1983-84</u>
28	
29	Maine Forestry District Tax (repeal) (\$3,800,000)
30	Forest Fire Suppression Tax 3,250,000

1 First Response Premium 740,000

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

5 STATEMENT OF FACT

6 This new draft repeals the Maine Forestry Dis-
7 trict and the Maine Forestry District Tax and makes
8 technical adjustments required by that repeal. The
9 new draft makes a legislative finding that the cost
10 for 1983 of state provided forest fire control ser-
11 vices in the unorganized territory which are over and
12 above those provided on a statewide level is equal to
13 9¢ per acre and collects that amount from the
14 unorganized territory through the municipal cost com-
15 ponent.

16 The Department of Conservation would receive a
17 General Fund appropriation annually for the full
18 amount of the costs of forest fire control. The Gen-
19 eral Fund would be reimbursed in the amount of the 9¢
20 per acre collected from the municipal cost component
21 plus a Forest Fire Suppression Tax for a total of
22 approximately 2/3 of the costs of forest fire con-
23 trol. Therefore, the General Fund would effectively
24 bear approximately 1/3 of the costs of the forest
25 fire control including the cost of services to state
26 land. This amounts to approximately \$1.97 million
27 for 1983-84.

28 The Forest Fire Suppression Tax would raise
29 \$3,250,000 for 1983 through an excise tax on owners
30 of parcels containing 100 or more acres of protected
31 land. The tax would be assessed by the State Tax
32 Assessor with municipalities identifying landowners
33 subject to the tax. The amount of the tax per acre
34 is \$3,250,000 divided by the number of protected
35 acres subject to the tax. It is estimated to be
36 approximately 24.6¢ per acre.

37 This new draft establishes a Forest Fire Advisory
38 Council to monitor the activities and financing of
39 state forest fire control activities. Specifically,
40 the council is required to report to the next session

1 of the Legislature regarding recommendations for
2 changes in forest fire control operations, as well as
3 methods of financing state first response services
4 and the acreage threshold for the Forest Fire Sup-
5 pression Tax in future years.

6 This new draft also contains the recommendations
7 of the Forest Fire Control Study Commission that the
8 maximum municipal liability for forest fire suppres-
9 sion costs should be reduced from 1/2 to 1/4 of 1% of
10 state valuation.

11

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