

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 337

6
7 H.P. 267

House of Representatives, February 1, 1985

8 Submitted by the Department of Conservation pursuant to Joint Rule 24.
9 Reference to the Committee on Energy and Natural Resources suggested
and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Michaud of Medway.

11 Cosponsored by Representative Law of Dover-Foxcroft, Representative
Dexter of Kingfield and Senator Usher of Cumberland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Amend the Maine Spruce Budworm
18 Management Act.
19

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

22 Sec. 1. 12 MRSA §8424, sub-§3, as amended by PL
23 1983 c. 656, §§1 and 2, is further amended to read:

24 3. Effect of application. The director shall ac-
25 cept, not later than December 1st of each year, any
26 application which to his satisfaction meets the re-
27 quirements of this section and any additional crite-
28 ria which the director may impose by regulation in
29 furtherance of the legislative policies of this sub-
30 chapter. By December 31st, the director shall certify
31 in writing to the State Tax Assessor the complete
32 list of all participants in the program. The list
33 shall include the names of the forest landowners, the
34 names and addresses of the persons designated to be
35 billed and served with notices of liens,

1 particularized descriptions of the real estate in-
2 cluded in the spray program area and statements of
3 the acreage included in each parcel. If a change in
4 ownership occurs after December 31st, the director
5 shall inform the State Tax Assessor not later than
6 the following September 1st.

7 Upon the director's acceptance of any such applica-
8 tion, the forest land involved shall, for a period of
9 5 years, be and remain eligible for inclusion within
10 the spray project, and shall be subject to taxation
11 pursuant to section 8427, regardless of any change in
12 ownership of such forest land. The areas sprayed each
13 year shall be determined on an annual basis pursuant
14 to subsection 4, ~~and shall be subject to taxation~~
15 ~~pursuant to section 8427, regardless of any change in~~
16 ~~ownership of such forest land.~~ At the expiration of
17 the 5-year ~~period~~, application must be renewed
18 by the forest land owner and accepted by the director
19 in accordance with this section in order to enable
20 continued eligibility for participation in subsequent
21 spray projects. Forest land which is eligible for in-
22 clusion within the spray project and which has been
23 accepted by the director may be withdrawn from the
24 spray program area prior to the end of the 5-year pe-
25 riod, provided that the withdrawal is made no later
26 than December 1st to be effective for the spray
27 project of the following year and that during the
28 5-year period:

29 A. Changes in present law, regulation or Maine
30 Forest Service policy prohibit the forest land
31 from being treated with either biological or
32 chemical insecticides;

33 B. Natural disaster, such as forest fire or
34 blowdown make insecticide treatment impractical;

35 C. The director determines that withdrawal of
36 the forest land furthers the legislative policies
37 of this subchapter; or

38 D. The landowner provides written assurance in
39 the form of specific protection plans for each
40 block of forest land proposed for withdrawal from
41 the 5-year protection district.

1 Sec. 2. 12 MRSA §8426, as amended by PL 1983, c.
2 819, Pt. A, §36, is further amended to read:

3 §8426. Funding

4 1. Recommendation of the director. On or before
5 January 1st of each year, the director shall report
6 in writing to the Bureau of the Budget and to the
7 Legislature his estimate of the costs of implementa-
8 tion of any ~~spray project~~ management program proposed
9 for that calendar year, along with his estimate of
10 the cost of funding program planning activities for
11 the period beginning October 1st and ending on April
12 30th of the following year.

13 2. Authorization by Legislature. Following the
14 recommendation made in accordance with subsection 1,
15 the Legislature shall determine, not later than March
16 1st, the amount, if any, authorized for expenditure
17 for any ~~spray project~~ management program in that calen-
18 dar year, ~~except for the 1983 project which shall~~
19 ~~be determined not later than March 20th.~~ That excise
20 tax shall be assessed and collected in accordance
21 with section 8427, subsection 2. At the same time,
22 the Legislature shall determine the amount, if any,
23 authorized for expenditure for preproject planning
24 during the period beginning October 1st and ending
25 April 30th of the following year.

26 3. Management program special accounts. Special
27 accounts shall be established in the following man-
28 ner.

29 A. The Treasurer of State shall establish 2 ded-
30 icated revenue accounts as follows.

31 (1) Into one account shall be deposited any
32 revenues received by the State from the Gov-
33 ernment of the United States for any spray
34 project.

35 (2) Into the other account shall be depos-
36 ited any revenues received by the State from
37 the excise taxes authorized pursuant to this
38 subchapter.

1 B. The moneys credited to such accounts shall be
2 used by the Bureau of Forestry to pay any ex-
3 penses, debts, accounts and lawful demands in-
4 curred in connection with spray projects manage-
5 ment programs authorized under this subchapter,
6 and the director shall authorize the State Con-
7 troller to draw his warrant therefor at any time.
8 Any remaining balance in these accounts shall
9 continue from year to year as a fund available
10 for the purposes set out in this subchapter and
11 for no other purpose.

12 C. Any revenue deposited in spray project spe-
13 cial accounts attributable to services funded
14 from other state accounts shall be credited to
15 the accounts funding these services. If the Gen-
16 eral Fund funded these services, the revenue
17 shall be credited to the General Fund Undedicated
18 Revenue Account. In the case where the original
19 source cannot be determined, these funds shall be
20 deposited in the General Fund.

21 4. Borrowing from General Fund. To accomplish
22 the purpose of this subchapter, the director, subject
23 to the approval of the Governor, may borrow moneys
24 from the General Fund for up to 120 days, at no in-
25 terest, in order to enable the bureau to pay ex-
26 penses, debts, accounts and lawful demands for any
27 spray project management program authorized under
28 subsection 2; provided that the aggregate amount of
29 such borrowing may at no time exceed the amount of
30 uncollected excise taxes authorized under this sub-
31 chapter for that spray project.

32 5. Treasurer of State; temporary loan. The
33 Treasurer of State, upon the recommendation of the
34 director, as approved by the Governor, may negotiate
35 a temporary loan or loans in anticipation of excise
36 taxes to be raised during the same fiscal year. The
37 loan application shall be initiated by the Treasurer
38 of State so that the funds derived therefrom are
39 available not before July 1st for expenditure by Oc-
40 tober 1st of the same fiscal year.

41 The money borrowed shall be deposited in a separate
42 special revenue account the account established pur-
43 suant to section 8426, subsection 3, paragraph A,

1 subparagraph (2), and shall be used to fund the pro-
2 gram during the preproject period beginning October
3 1st and ending on April 30th. Any income derived
4 from investment of these funds shall be credited to
5 the account established pursuant to section 8426,
6 subsection 3, paragraph A, subparagraph (2) same
7 account.

8 Any amount borrowed pursuant to this section shall be
9 repaid with interest from the amount collected as a
10 preproject excise tax under section 8427, subsection
11 2. In the event that no such tax is collected, this
12 amount shall be raised by a shared tax applicable to
13 all acres in the district, as of July 1st of that
14 fiscal year, the per acre rate of which shall be cal-
15 culated by dividing the sum to be raised by the num-
16 ber of acres within the district.

17 Sec. 3. 12 MRSA §8427, sub-§2, as amended by PL
18 1983, c. 810, §4, is further amended to read:

19 2. Pre-project excise tax. The pre-project ex-
20 cise tax shall be computed in the following manner:

21 A. The ratio of the planned spray acres for each
22 landowner to the total planned spray acres for
23 all landowners controlling 1% or more of the to-
24 tal planned spray acres in the project;

25 B. The ratio computed in paragraph A shall be
26 multiplied by the estimate of total project cost
27 provided in section 8426, subsection 1, less the
28 carryover account balance for landowners in the
29 previous program; and

30 C. The pre-project excise tax shall be assessed
31 and billed by the State Tax Assessor within 30
32 days following the legislative authorization pro-
33 vided in section 8426, subsection 2-; and

34 D. In the event that no spray project is planned
35 for a given year, the pre-project tax shall be
36 computed in the following manner:

37 (1) The ratio of the spruce fir forest pro-
38 tection district acres for each landowner to

1 the total protection district acres for all
2 landowners controlling 1% or more of the to-
3 tal protection district acres;

4 (2) The ratio computed in this paragraph
5 shall be multiplied by the estimate of total
6 program cost produced in section 8426, sub-
7 section 1; and

8 (3) The pre-project excise tax shall be as-
9 essed and billed by the State Tax Assessor
10 within 30 days following the legislative au-
11 thorization provided in section 8426, sub-
12 section 2.

13 Sec. 4. 12 MRSA §8427, sub-§3, as amended by PL
14 1983, c. 810, §5, is further amended to read:

15 3. Post-project excise tax. The post-project tax
16 for forest landowners within the district shall be
17 computed and assessed as follows.

18 A. The director shall determine the total amount
19 of costs incurred or budgeted to be expended in
20 connection with ~~any spray project~~ the management
21 program conducted during the then current calen-
22 dar year. This amount shall be reduced by the
23 amount of any money received for that program
24 from the Federal Government.

25 B. ~~The amount computed in paragraph A shall be~~
26 ~~reduced by the amount of any moneys received for~~
27 ~~that project from the Government of the United~~
28 ~~States.~~

29 C. Ninety percent of the amount computed under
30 paragraph B ~~A~~ shall be raised by a post-project
31 spray tax, the per acre rate of which shall be
32 calculated by dividing the sum to be so raised by
33 the number of acres which actually received spray
34 treatment, as determined by the director.

35 D. Ten percent of the amount computed under par-
36 agraph B ~~A~~ shall be raised by a post-project
37 shared tax, applicable to all taxable acres in
38 the district, the per acre rate of which shall be
39 calculated by dividing the sum to be raised by

1 the number of acres within the district, as des-
2 ignated by the director.

3 D-1. In the event that no spray project is con-
4 ducted in a given year, the amount computed under
5 paragraph C shall be raised by a post-project
6 shared tax, applicable to all taxable acres in
7 the district, the per acre rate of which shall be
8 calculated by dividing the sum to be raised by
9 the number of acres within the district, as des-
10 ignated by the director.

11 E. The director shall certify in writing to the
12 State Tax Assessor, by September 1st, the
13 post-project shared tax rates and the
14 post-project spray tax rate, together with the
15 number of acres within each ownership which are
16 subject to those taxes. The director's certifica-
17 tion shall be based on the latest available actu-
18 al cost data, as well as an estimate of outstand-
19 ing obligations, including personnel costs of the
20 budworm management program. Final actual costs
21 shall be determined on or before March 15th of
22 the following calendar year. Any underestimates
23 or overestimates resulting from this paragraph
24 shall be credited or debited to the following
25 year's program as appropriate.

26 F. The amount of the post-project excise taxes
27 payable by each landowner shall be reduced by the
28 amount assessed upon that landowner on account of
29 the pre-project excise tax payable for that cal-
30 endar year.

31 G. The State Tax Assessor shall compute, assess
32 and bill, by November 1st the amount of the
33 post-project excise taxes payable by each land-
34 owner in accordance with this section.

35 In the event that the amount so calculated results in
36 a negative balance for any landowner, the State Tax
37 Assessor shall refund to that landowner the amount of
38 the balance in the form of a tax rebate. The rebate
39 shall be made no later than April 30th of the year
40 following the assessment date.

1 STATEMENT OF FACT

2 This bill provides a mechanism to fund ongoing
3 budworm survey and assessment, as well as certain
4 program management activities in the event of a year
5 without an annual spray project. Currently, all
6 budworm related activities are dependent upon excise
7 taxes levied when a spray project is to be conducted.
8 We are nearing a time when spraying might not be done
9 in a particular year, but it is still essential that
10 we survey and monitor budworm populations. This bill
11 establishes a funding mechanism for these activities
12 in a nonspray year.

13 In addition, section 2 amends the Revised Stat-
14 utes, Title 12, section 8426, subsection 5, which was
15 enacted by the 111th Legislature to permit the bor-
16 rowing of temporary operating funds in anticipation
17 of excise taxes. A separate account was established
18 to accept the borrowed funds. It has since been dis-
19 covered that this is inconsistent with state practice
20 and will create unnecessary paperwork and will com-
21 plicate the department's efforts to accurately ac-
22 count for budworm costs. This bill corrects that
23 problem by having borrowed money deposited in the
24 regular budworm operating account, consistent with
25 state practice for other borrowed funds.

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