

MAINE STATE LEGISLATURE

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1 (After Deadline)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2165

8 H.P. 1530

House of Representatives, March 11, 1986

9 Approved for introduction by a majority of the Legislative Council
10 pursuant to Joint Rule 27.

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

EDWIN H. PERT, Clerk

Presented by Representative Cashman of Old Town.

Cosponsored by Speaker Martin of Eagle Lake, Senator Emerson of
Penobscot and Representative Ingraham of Houlton.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT Concerning Property Tax Assessment and
19 Appeals.
20

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

23 Sec. 1. 3 MRSA §507, sub-§10, ¶B, as repealed
24 and replaced by PL 1983, c. 819, Pt. A, §4, is
25 amended to read:

26 B. Unless continued or modified by law, the fol-
27 lowing Group E-2 independent agencies shall ter-
28minate, not including the grace period, no later
29than June 30, 1989. The Board of Emergency Munic-
30ipal Finance, the Finance Authority of Maine and
31the Maine Municipal Bond Bank shall not termi-
32nate, but shall be reviewed by the Legislature no
33later than June 30, 1989:

34 (1) Board of Emergency Municipal Finance;

- (2) Finance Authority of Maine;
(3) Maine Municipal Bond Bank;
(4) ~~Municipal Valuation Appeals Board;~~
(5) ~~Land Classification Appeals Board;~~
(6) State Liquor Commission;
(7) Capitol Planning Commission;
(8) ~~State Board of Assessment Review; and~~
(9) Maine Health Care Finance Commission;
and
(10) State Board of Property Tax Review.

Sec. 2. 5 MRSA §12004, sub-§2, ¶A, as enacted by PL 1983, c. 812, §39, is amended to read:

A. This classification shall include the following boards:

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
(1) State Board of Assessment Review	\$50/Day	36 MRSA §486
(2) Land Classification Appeals Board	\$25/Day-Public Member	36 MRSA §841-B
(3) Municipal Valuation Appeals Board	\$50/Day	36 MRSA §291
(4) State Claims Board	\$100/Day	23 MRSA §152
(5) <u>State Board of Property Tax Review</u>	<u>\$50/Day</u>	<u>36 MRSA §271</u>

Sec. 3. 36 MRSA §191, sub-§2, ¶I, as amended by PL 1981, c. 504, §1, is further amended to read:

I. The disclosure of information acquired pursuant to Part 2; and

1 Sec. 4. 36 MRSA §191, sub-§2, ¶J, as enacted by
2 PL 1981, c. 504, §2, is amended to read:

3 J. The disclosure to a state agency seeking set-
4 off of a liquidated debt against a tax refund
5 pursuant to section 5276-A of information neces-
6 sary to effectuate the intent of that section;
7 and

8 Sec. 5. 36 MRSA §191, sub-§2, ¶K is enacted to
9 read:

10 K. The disclosure by a municipal assessor, or by
11 the State Tax Assessor with regard to the unorga-
12 nized territory, of information contained on the
13 declaration of value form required by section
14 4641-B, to a person who has filed an application
15 for abatement pursuant to section 841. Informa-
16 tion which may be disclosed is limited to infor-
17 mation which is relevant to the determination of
18 just value of the property for which the form was
19 filed.

20 Sec. 6. 36 MRSA §208, as repealed and replaced
21 by PL 1975, c. 628, §1, is amended to read:

22 §208. Equalization

23 The Director of the Bureau of Taxation shall have
24 the duty of equalizing the state and county taxes
25 among the several towns and unorganized territory.
26 He shall equalize and adjust the assessment list of
27 each town, by adding to or deducting from it such
28 amount as will make it equal to its just value as of
29 April 1st. Notice of the proposed valuations of mu-
30 nicipalities within each county shall be sent by cer-
31 tified mail to the chairman of the board of asses-
32 sors, and chairman of the board of selectmen in mu-
33 nicipalities having selectmen, of each municipality
34 within that county on or before the first day of Sep-
35 tember preceding the regular session of the Legisla-
36 ture. The valuation so determined is subject to re-
37 view by the Municipal Valuation Appeals Board State
38 Board of Property Tax Review pursuant to sections
39 291, 292 and 293 subchapter II-A, but the valuation
40 finally certified to the Secretary of State pursuant
41 to section 381 shall be used for all computations re-

1 quired by law to be based upon the state valuation
2 with respect to municipalities.

3 Sec. 7. 36 MRSA c. 101, sub-c. III is repealed.

4 Sec. 8. 36 MRSA c. 101, sub-c. II-A is enacted
5 to read:

6 SUBCHAPTER II-A

7 PROPERTY TAX APPEALS

8 §271. State Board of Property Tax Review

9 1. Organization; meetings. The State Board of
10 Property Tax Review, as established by Title 5, sec-
11 tion 12004, subsection 2, shall consist of 15 members
12 appointed by the Governor for terms of 3 years, ex-
13 cept for initial appointments which shall be 1/3 of
14 the membership for one year, 1/3 of the membership
15 for 2 years and 1/3 of the membership for 3 years.
16 Vacancies on the board shall be filled for the re-
17 mainder of the unexpired term. The membership shall
18 be equally divided among attorneys, real estate bro-
19 kers, engineers, retired assessors and other citi-
20 zens. The board shall annually elect a chairman and
21 secretary. The secretary need not be chosen from the
22 members of the board.

23 2. Powers and duties. The board shall have the
24 following powers and duties:

25 A. Hear and determine appeals according to the
26 following provisions of law:

27 (1) The tree growth tax law;

28 (2) The farm and open space law;

29 (3) In cases of failure to act as provided
30 in section 843;

31 (4) In cases of failure to act as provided
32 in section 844;

33 (5) Section 272;

1 (6) Section 273;
2 (7) Section 307; and
3 (8) Section 2865;
4 B. Raise or lower assessments to conform to the
5 law;
6 C. Promulgate rules governing procedures before
7 the board; and
8 D. Administer oaths, take testimony, hold hear-
9 ings, summon witnesses, subpoena records, files
10 and documents it considers necessary for carrying
11 out its responsibilities.
12 3. Procedures. Requests for appeals shall be
13 mailed to the chairman of the board, with a copy to
14 the State Tax Assessor and to the assessor of the mu-
15 nicipality where the property subject to appeal is
16 located.
17 4. Services. The board may request the advice
18 and services of any assessor or appraiser holding a
19 valid certificate from the Bureau of Taxation and
20 other persons as it deems advisable. No assessor or
21 appraiser may sit with the board concerning any prop-
22 erty which he has previously appraised or assessed.
23 5. Hearings. Upon receipt of an appeal, the
24 chairman of the board shall select from the list of
25 board members 5 persons to hear the appeal and shall
26 notify all parties of the time and place of the hear-
27 ing. The selection of members for an appeal hearing
28 shall be based upon availability, geographic conve-
29 nience and area of expertise. Three of the 5 members
30 shall constitute a quorum.
31 6. Compensation. Board members serving on an
32 appeal panel shall be compensated according to Title
33 5, chapter 379.
34 7. Appeal. Decisions of the board may be ap-
35 pealed pursuant to the Maine Administrative Procedure
36 Act, Title 5, chapter 375.

1 §272. Municipal valuation appeals

2 The State Board of Property Tax Review shall hear
3 appeals by any municipality aggrieved by the Bureau
4 of Taxation's determination of equalized valuation or
5 failure to meet minimum assessing standards and
6 render its decision based upon the recorded evidence.

7 1. Filing. Any municipality aggrieved shall
8 file a written notice of appeal within 45 days of no-
9 tification of the decision of the Bureau of Taxation.
10 The appeal to the board shall be in writing signed by
11 a majority of the municipal officers, and shall be
12 accompanied by an affidavit stating the grounds for
13 appeal. A copy of the appeal and the affidavit shall
14 be served on the Bureau of Taxation.

15 2. Hearing. The board shall hear the appeal
16 within a reasonable time of the filing of the appeal
17 by the municipality and shall render its decision no
18 later than January 15th following the date on which
19 the appeal is taken. The board shall order notice of
20 hearing and give at least 5 days' notice prior to
21 hearing thereof to the municipality and to the Bu-
22 reau of Taxation.

23 3. Determination. The Bureau of Taxation shall
24 have the burden of showing that its determination is
25 reasonable and the municipality's claims are unrea-
26 sonable. The board shall sustain the determination
27 of the Bureau of Taxation only upon finding that the
28 bureau's determination is reasonable and the claims
29 of the municipality are unreasonable. If the board
30 does not sustain the bureau's determination, it shall
31 make its own reasonable determination giving due
32 weight to the claims of the municipality and the Bu-
33 reau of Taxation.

34 4. Powers. The board, after hearing, shall have
35 the power to:

36 A. Raise, lower or sustain the state valuation
37 as determined by the Bureau of Taxation with re-
38 spect to the municipality which has filed the ap-
39 peal; or

1 B. Raise, lower or sustain the Bureau of
2 Taxation's determination of the municipality's
3 achieved assessing standards and then, if the
4 achieved standards were inadequate under the pro-
5 visions of this chapter and upon receiving from
6 both the bureau and the municipality recommended
7 solutions to the inaccurate assessing practices,
8 order the municipality to take the corrective
9 steps the board considers necessary.

10 The board shall certify its decision to the Bureau of
11 Taxation which shall, if necessary, incorporate the
12 decision in the valuation certified pursuant to sec-
13 tion 305, subsection 1.

14 5. Procedure following appeal. The valuation
15 determined on appeal shall be certified to the State
16 Tax Assessor, who shall, if necessary, incorporate
17 the decision in the valuation certified pursuant to
18 section 305, subsection 1. If an appeal to the Supe-
19 rior Court or Supreme Judicial Court results in a
20 lowering of the municipality's state valuation, the
21 Treasurer of State shall reimburse with funds appro-
22 priated from the General Fund, an amount equal to
23 money lost by the municipality, due to the use by the
24 State of an incorrect state valuation in any statuto-
25 ry formula used to distribute state funds to munici-
26 palities.

27 §273. Nonresidential property exceeding \$500,000

28 As an alternative to the appeal procedures speci-
29 fied in section 843 or 844, the owner of nonresiden-
30 tial property with an equalized municipal valuation
31 of \$500,000 or greater may choose to appeal that val-
32 uation to the State board of Property Tax Review
33 within 60 days after notice of the decision from
34 which the appeal is being taken or after the applica-
35 tion is deemed to have been denied. If the board
36 thinks that the owner is over-assessed, he shall be
37 granted such reasonable abatement as the board thinks
38 proper.

39 §274. Electric generating facilities

40 Any municipality or public utility aggrieved by
41 the determination of the State Tax Assessor, regard-

1 ing the valuation of an electric generating facility
2 pursuant to section 307, may appeal that determina-
3 tion within 60 days of notification of the determina-
4 tion to the State Board of Property Tax Review.

5 Sec. 9. 36 MRSA §307 is enacted to read:

6 §307. Electric generating facilities

7 The operating property, excluding transmission
8 and distribution property, of public utilities facil-
9 ities capable of use for the purpose of generating
10 1,000 or more kilowatts of electricity shall be val-
11 ued according to the following procedure.

12 1. Rule. The State Tax Assessor shall promul-
13 gate a rule and provide an opportunity for public
14 hearing on the method used to determine the just val-
15 ue of electric generating facilities property subject
16 to this section.

17 2. Determination. The just value of all proper-
18 ty subject to this section shall be determined by the
19 State Tax Assessor. When determining just value, the
20 State Tax Assessor shall consult the municipal asses-
21 sor of the municipality in which the property is lo-
22 cated and may consult other experts as he considers
23 appropriate.

24 3. Notification. The State Tax Assessor shall,
25 before June 1st, annually, notify municipal assessors
26 of the values determined for each facility in the mu-
27 nicipality.

28 4. Appeal. Any owner of property subject to
29 this section or municipality aggrieved by the deter-
30 mination of the State Tax Assessor may appeal that
31 determination to the State Board of Property Tax Re-
32 view.

33 Sec. 10. 36 MRSA §329, sub-§2, as amended by PL
34 1979, c. 666, §11, is further amended to read:

35 2. Appeal. The municipality deeming itself ag-
36 grieved may file a written notice of appeal with the
37 Municipal Valuation Appeals Board State Board of
38 Property Tax Review in accordance with the provisions
39 of sections 291 through 293 subchapter II-A.

1 Sec. 11. 36 MRSA §§330 and 331 are enacted to
2 read:

3 §330. Professional assessment firms

4 1. Guidelines for professional assessing firms.
5 The State Tax Assessor shall establish guidelines for
6 professional assessing firms which shall include the
7 following:

8 A. Each firm shall employ at least one certified
9 Maine assessor; and

10 B. Each professional assessing firm performing
11 reevaluation services for a municipality shall
12 agree to provide the municipality with papers and
13 information necessary to conduct future
14 reevaluations.

15 2. Model contract. The State Tax Assessor shall
16 develop a model contract for reevaluation services.
17 This model contract shall be made available to all
18 municipalities.

19 3. Assistance to municipalities. The State Tax
20 Assessor shall provide technical assistance to munic-
21 ipalities, when requested, in evaluating and select-
22 ing professional reevaluation firms.

23 §331. Assessment manual

24 The State Tax Assessor shall maintain and period-
25 ically update a State assessment manual which shall
26 identify accepted and preferred methods of assessing
27 property.

28 Any municipality performing or contracting for
29 the performance of a reevaluation after January 1,
30 1987, shall use or require the use of the state as-
31 essment manual or another manual or procedure with
32 the prior approval of the State Tax Assessor. Any
33 municipality may request the State Tax Assessor to
34 approve a procedure or manual other than the state
35 assessment manual.

36 Sec. 12. 36 MRSA §436 as amended by PL 1983, c.
37 812, §§268 and 269, is repealed.

1 Sec. 13. 36 MRSA §583, as amended by PL 1979, c.
2 666, §19, is further amended to read:

3 §583. Abatement

4 Assessments made under this subchapter and deni-
5 als of applications for valuation under this subchap-
6 ter are subject to the abatement procedures provided
7 by section 841. Appeal from an abatement decision
8 rendered under section 841 shall be to the ~~Land Clas-~~
9 ~~sification Appeals Board~~ State Board of Property Tax
10 Review.

11 Sec. 14. 36 MRSA §701-A, as enacted by PL 1969,
12 c. 246, is amended to read:

13 §701-A. Just value defined

14 In the assessment of property, assessors in de-
15 termining just value are to define this term in a
16 manner which recognizes only that value arising from
17 presently possible land use alternatives to which the
18 particular parcel of land being valued may be put.
19 Assessors must consider the effect upon value of any
20 enforceable restrictions to which the use of the land
21 may be subjected. Restrictions shall include but are
22 not limited to zoning restrictions limiting the use
23 of land, subdivision restrictions and any recorded
24 contractual provisions limiting the use of lands. The
25 just value of land is deemed to arise from and is at-
26 tributable to legally permissible use or uses only.
27 In determining just value, the assessor must consider
28 the effect upon value of any functional or economic
29 obsolescence.

30 Sec. 15. 36 MRSA §841-B, as repealed and re-
31 placed by PL 1985, c. 295, §54, is repealed.

32 Sec. 16. 36 MRSA §841-C, as amended by PL 1983,
33 c. 855, §5, is repealed.

34 Sec. 17. 36 MRSA §842, as amended by PL 1977, c.
35 509, §17, is further amended to read:

36 §842. Notice of decision

1 The assessors, municipal officers, chief assessor
2 or the State Tax Assessor, in the case of the unorga-
3 nized territory, shall give to any person applying to
4 them for an abatement of taxes notice in writing of
5 their decision upon such the application within 10
6 days after they take final action thereon. If the as-
7 sessors, municipal officers, chief assessor or State
8 Tax Assessor, before whom an application in writing
9 for the abatement of a tax is pending, fails to give
10 written notice of their decision within 90 60 days
11 from the date of filing of such the application, the
12 application shall be deemed to have been denied, and
13 the applicant may appeal as provided, unless the ap-
14 plicant shall in writing have consented to further
15 delay.

16 Sec. 18. 36 MRSA §843, as amended by PL 1981, c.
17 698, §180, is further amended to read:

18 §843. Appeals

19 1. Municipalities. Where the municipality has
20 adopted a board of assessment review, if the asses-
21 sors or the municipal officers refuse to make the
22 abatement asked for, the applicant may apply in writ-
23 ing to the board of assessment review within 60 days
24 after notice of the decision from which the appeal is
25 being taken or after the application is deemed to
26 have been denied, and, if the board thinks he is
27 over-assessed, he shall be granted such reasonable
28 abatement as the board thinks proper. Either party
29 may appeal from the decision of the board of assess-
30 ment review directly to the Superior Court, in ac-
31 cordance with Rule 80B of the Maine Rules of Civil
32 Procedure. If the board of assessment review fails
33 to give written notice of their decision within 60
34 days of the date the application is filed, unless the
35 applicant agrees in writing to further delay, the ap-
36 plication shall be deemed denied and the applicant
37 may appeal to Superior Court as if there had been a
38 written denial or the applicant may appeal to the
39 Board of Property Tax Review by following the proce-
40 dures specified in subsection 2.

41 2. Primary assessing areas. If the chief asses-
42 sor, municipal officer or the State Tax Assessor re-
43 fuses to make the abatement asked for, the applicant

1 may apply in writing to the State Board of Assessment
2 Review Property Tax Review within 60 days after no-
3 tice of the decision from which such the appeal is
4 being taken or after the application shall be deemed
5 to have been denied, and if the board thinks he is
6 over-assessed, he shall be granted such reasonable
7 abatement as the board thinks proper. The decision
8 of the State Board of Assessment Review Property Tax
9 Review shall be deemed final agency action by that
10 board under the Maine Administrative Procedure Act.
11 Appeals to the State Board of Assessment Review Prop-
12 erty Tax Review shall be directed to the Chairman of
13 the State Board of Assessment Review Property Tax
14 Review, who shall convene the board to hear the ap-
15 peal and shall notify all parties of the time and
16 place thereof.

17 Sec. 19. 36 MRSA §844, as amended by PL 1981, c.
18 364, §22, is further amended to read:

19 §844. -- to county commissioners

20 Except where the municipality has adopted a board
21 of assessment review or has been designated as a pri-
22 mary assessing area, if the assessors or the municipi-
23 pal officers refuse to make the abatement asked for,
24 the applicant may apply to the county commissioners,
25 within 60 days after notice of the decisions from
26 which the appeal is being taken, or within 60 days
27 after the application is deemed to have been denied.
28 If they think that he is over-assessed, he shall be
29 granted such reasonable abatement as they think prop-
30 er, and if he has paid the tax, he shall be reim-
31 bursed out of the municipal treasury, with costs in
32 either case. If the applicant fails, the commission-
33 ers shall allow costs to the municipality, taxed as
34 in a civil action in the Superior Court, and issue
35 their warrant of distress against him for collection
36 of such amount as may be due the municipality. The
37 commissioners may require the assessors or municipal
38 clerk to produce the valuation by which the assess-
39 ment was made, or a copy of it. Either party may ap-
40 peal from the decision of said county commissioners
41 to the Superior Court, in accordance with Rule 80B of
42 the Maine Rules of Civil Procedure. If the county
43 commissioners fail to give written notice of their
44 decision within 60 days of the date the application

1 is filed, unless the applicant agrees in writing to
2 further delay, the application shall be deemed denied
3 and the applicant may appeal to Superior Court as if
4 there had been a written denial or the applicant may
5 appeal to the State Board of Property Tax Review by
6 following the procedures specified in section 843,
7 subsection 2.

8 Sec. 20. 36 MRSA §1118, as repealed and replaced
9 by PL 1979, c. 666, §25, is amended to read:

10 §1118. Appeals and abatements

11 The denial of an application or an assessment
12 made under this subchapter is subject to the abate-
13 ment procedures provided by section 841. Appeal from
14 a decision rendered under section 841 or a recom-
15 mended current use value established under section
16 1106 shall be to the Land Classification Appeals
17 Board State Board of Property Tax Review.

18 Sec. 21. 36 MRSA §2865, sub-§2, as enacted by PL
19 1981, c. 711, §10, is amended to read:

20 2. Valuation. If a mine site is located in a
21 municipality, he shall determine the valuation of
22 mining property and the percentage of that valuation
23 represented by land and buildings not exempt from
24 property taxes. That valuation of land and buildings
25 shall be applied in determining the property taxes.
26 A municipality in which a mine site is located may
27 appeal that determination to the Municipal Valuation
28 Appeals Board State Board of Property Tax Review as
29 provided under section 291 subchapter II-A.

30 Sec. 22. Appropriation. The following funds are
31 appropriated from the General Fund to carry out the
32 purposes of this Act.

33		<u>1986-87</u>
34	Municipal Valuation Appeals Boards	
35	Positions	(-1.0)
36	Personal Services	\$(20,479)
37	All Other	<u>(11,442)</u>
38	Total	\$(31,921)

1	Board of Assessment Review	
2	Personal Services	\$(3,700)
3	All Other	<u>(1,300)</u>
4	Total	\$(5,000)
5	Property Tax Review,	
6	State Board of	
7	Positions	(1.0)
8	Personal Services	\$24,179
9	All Other	<u>12,742</u>
10	Total	\$36,921

1 Section 11 provides that the State Tax Assessor
2 will establish guidelines for professional assessing
3 firms and provide technical assistance to municipali-
4 ties.

5 Section 14 provides that in determining just val-
6 ue, an assessor must consider functional and economic
7 obsolescence. This provision is not intended to
8 change the constitutional requirement that all prop-
9 erty be valued at just or market value.

10 Section 17 changes from 90 days to 60 days the
11 period of time for local decisions on a request for
12 an abatement.

13 Section 18 provides that where there is a local
14 board of assessment review, and it does not decide on
15 an appeal of an abatement within 60 days, that the
16 taxpayer may elect to appeal to either the Superior
17 Court or to the State Board of Property Tax Review.

18 Section 19 provides that where abatement appeals
19 are made to county commissioners, and they do not de-
20 cide on an appeal of an abatement within 60 days,
21 that the taxpayer may elect to appeal to either Supe-
22 rior Court or to the State Board of Property Tax Re-
23 view.

24 Section 22 deappropriates funds from 2 boards be-
25 ing repealed and reappropriates the same amount to
26 the new State Board of Property Tax Review.

27 5980022486