

MAINE STATE LEGISLATURE

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L.D. 209
(Filing No. S-383)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A " to S.P. 124, L.D. 209, Bill, "An Act Concerning Technical Changes to the Tax Law"

Amend the bill by inserting after the title the following:

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

Whereas, certain corrections and additions to the taxation-related laws must be made as soon as possible to avoid unintended problems; 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,'

Further amend the bill by inserting after section 1 the following:

'Sec. 2. 30-A MRSA §2321, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2; Pt. C, §106; and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Establishment. Any 7 or more municipalities or unorganized territory townships, all of which are within one regional planning and development district and within one subdistrict if any, by vote of their municipal officers, may join together to form a regional planning commission.

Sec. 3. 30-A MRSA §2323, as enacted by PL PL 1987, c. 737, Pt. A, §2; Pt. C, §106; and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

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§2323. Representation

The municipal members of the commission's governing body shall consist of representatives of each member municipality or township appointed by the municipal officers.

1. Municipal representatives. Municipalities or townships with a population of less than 10,000, as determined by the last Federal Decennial Census, shall have 2 representatives. Municipalities with populations greater than 10,000, as determined by the last Federal Decennial Census, shall have 2 representatives and an additional representative for each 10,000 increment in population, or fraction exceeding 1/2 of that number, over 10,000.

At least one representative for each municipality or township regardless of size must be a municipal officer or a designee elected by a majority vote of the municipal officers. This designee serves at the will of the municipal officers. All other representatives shall serve for terms of 2 years and may be removed by the municipal officers for cause after notice and hearing. A permanent vacancy shall be filled for the unexpired term in the same manner as a regular appointment.

2. County representatives. A regional planning commission, in its bylaws, shall make available voting membership to any county within its regional planning and development district or subdistrict as provided in section 1201. Each member county shall have 2 representatives, to be appointed by vote of the county commissioners.

3. Alternates. The commission, by bylaw, may provide for one alternate representative for each member municipality, township or county.

Sec. 4. 30-A MRSA §5253, sub-§1, ¶C, as enacted by PL 1987, c. 737, Pt. A, §2; Pt. C, §106; and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

C. The aggregate value of equalized taxable property of a tax increment financing district determined as of the April 1st preceding the date the designation of the district becomes effective, plus all existing tax increment financing districts determined as of the April 1st preceding the date the designation of each such district became effective, may not exceed 5% of the total value of equalized taxable property within the municipality as of the April 1st preceding the date the designation of the district becomes effective.

COMMITTEE AMENDMENT "A" to S.P. 124, L.D. 209

1 **Sec. 5. 30-A MRSA §5253, sub-§1, ¶E**, as enacted by PL 1987, c.
 2 737, Pt. A, §2; Pt. C, §106; and as amended by PL 1989, c. 6; c.
 3 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

5 E. The designation of captured assessed value of property
 6 within a tax increment financing district is subject to the
 7 following limitations.

9 (1) The Commissioner of Economic and Community
 10 Development shall adopt any rules necessary to allocate
 11 or apportion the designation of captured assessed value
 12 of property within tax increment financing districts in
 13 accordance with these limitations.

15 (2) ~~Fifteen percent of the project costs for the~~
 16 ~~development program must be incurred within 9 months of~~
 17 ~~the designation of the tax increment financing district~~
 18 ~~by the Commissioner of Economic and Community~~
 19 ~~Development.~~ The development program must be completed
 20 within 5 years of the designation of the tax increment
 21 financing district by the Commissioner of Economic and
 22 Community Development.

23 **Sec. 6. 30-A MRSA §5257**, as enacted by PL 1987, c. 737, Pt.
 24 A, §2; Pt. C, §106; and as amended by PL 1989, c. 6; c. 9, §2;
 25 and c. 104, Pt. C, §§8 and 10, is further amended to read:

26 **§5257. Financing**

27 The legislative body of a municipality may authorize, issue
 28 and sell bonds, including, but not limited to, general obligation
 29 or revenue bonds or notes, which mature within 20 years from the
 30 date of issue, to finance all project costs needed to carry out
 31 the development program within the development district. The
 32 municipal officers authorized to issue such bonds or notes may
 33 borrow money in anticipation of their sale for a period of up to
 34 3 years by issuing temporary notes and notes in renewal thereof.
 35 All revenues derived under section 5254 or under section 5255,
 36 subsection 1, received by the municipality shall be pledged for
 37 the payment of the incurred indebtedness and used to reduce or
 38 cancel the taxes, which may otherwise be required to be expended
 39 for that purpose. The notes, bonds or other forms of financing
 40 shall not be included when computing the municipality's net
 41 debt. Nothing in this section restricts the ability of the
 42 municipality to raise revenue for the payment of project costs in
 43 any manner otherwise authorized by law.

44 **Sec. 7. 36 MRSA §198, sub-§4**, as enacted by PL 1985, c. 430,
 45 §3, is amended to read:

COMMITTEE AMENDMENT "A" to S.P. 124, L.D. 209

1 4. Group 4. Tax expenditures which are contained in the
3 following provisions of law shall be reviewed by January 1, 1989,
and every 4 years thereafter:

5 A. Section 5122;

7 B. Section 5127;

9 C. Section 5130;

11 ~~D. Section 5146;~~

13 E. Section 5200-A;

15 F. Section 5202-A;

17 G. Section 5215; and

19 H. Section 5216;

21 I. Section 5216-B;

23 J. Section 5217;

25 K. Section 5217-A;

27 L. Section 5218;

29 M. Section 5219;

31 N. Section 5219-A; and

33 O. Section 5219-B.

35 Sec. 8. 36 MRSA §305, sub-§1, as amended by PL 1987, c. 497,
37 §10, is further amended to read:

39 1. Just value. Certify to the Secretary of State before the
41 first day of February the equalized just value of all real and
43 personal property in each municipality and unorganized place
45 which is subject to taxation under the laws of this State, except
47 captured assessed value located within a tax increment financing
49 district, ~~for purposes of calculating state aid for education
under Title 20-A, effective for districts designated after
December 31, 1986, only 75% of the captured assessed value within
a tax increment financing district is excepted from a
municipality's equalized just valuation.~~ Such equalized just
value shall be uniformly assessed in each municipality and
unorganized place and shall be based on 100% of the current
market value. It shall separately show for each municipality and
unorganized place the actual or estimated value of all real
estate which is exempt from property taxation by law or is the

COMMITTEE AMENDMENT "A" to S.P. 124, L.D. 209

1 captured value within a tax increment financing district. The
3 valuation as filed shall remain in effect until the next
valuation is filed and shall be the basis for the computation and
apportionment of the state and county taxes;

5

7 Sec. 9. 36 MRSA §574-A, as enacted by PL 1987, c. 755, is
amended to read:

9 §574-A. Ineligibility

11 The Legislature finds that when the value of a recreational
13 use lease exceeds the value of the tree growth which can be
extracted on a sustained basis per acre as determined pursuant to
15 section 576, then the land is no longer primarily used for the
continuous growth of forest products. This finding is sufficient
17 cause to remove from taxation under this subchapter those parcels
that are more valuable in terms of recreation and are being
19 leased on that basis. Therefore, notwithstanding sections 573 or
574, this subchapter shall not apply to any parcel of forest land
21 that is leased for consideration to any individual or group of
individuals to use for recreational purposes if that parcel of
23 land exceeds 100 acres and if the consideration for that lease
per acre exceeds the value of the growth which can be extracted
25 on a sustained basis per acre as determined pursuant to section
576. The owner of the leased parcels shall submit a copy of the
27 lease or leases on land subject to the provisions of this
subsection to the State Tax Assessor for land in the unorganized
29 territory and the municipal assessors in organized
municipalities. The State Tax Assessor or the municipal assessor
31 shall determine if the value of the lease exceeds the sustained
growth value. If the value of the lease is determined to exceed
33 the sustained growth value, the owner of the forest land shall
have 10 60 days from the date of notification to either terminate
35 the lease, amend the lease to comply with this section or
withdraw the land covered by the lease from the tree growth
37 taxation under this subchapter. In the case of withdrawal, such
action shall be subject to section 581 of this subchapter.

39 Sec. 10. 36 MRSA §841, sub-§1, as repealed and replaced by PL
1979, c. 73, is repealed and the following enacted in its place:

41

43 1. Error or mistake. The assessors, upon written
application stating the grounds therefore, filed within one year
45 from commitment, or on their own initiative within that period,
or the municipal officers, upon written application stating the
47 grounds therefore filed more than one year but within 3 years
from commitment, or on their own initiative within that period,
may make such reasonable abatement as they think proper to
49 correct any illegality, error or irregularity in assessment,
provided the taxpayer has complied with section 706. An
51 abatement under this subsection to correct an error in the

COMMITTEE AMENDMENT "A" to S.P. 124, L.D. 209

1 valuation of property may not be granted by the municipal
2 officers.'

3

4 Further amend the bill by striking out all of section 10 and
5 inserting in its place the following:

6

7 **'Sec. 10. 36 MRSA §5191, sub-§1, as enacted by P&SL 1969, c.**
8 **154, §F, is amended to read:**

9

10 **1. Modification in determining the adjusted gross income of**
11 **a resident partner. Any modification described in section 5125**
12 **5122 which relates to an item of partnership income, gain, loss**
13 **or deduction shall be made in accordance with the partner's**
14 **distributive share, for federal income tax purposes, of the item**
15 **to which the modification relates. Where a partner's distributive**
16 **share of any such item is not required to be taken into account**
17 **separately for federal income tax purposes, the partner's**
18 **distributive share of such that item shall be determined in**
19 **accordance with his the partner's distributive share, for federal**
20 **income tax purposes, of partnership taxable income or loss**
21 **generally.**

22

23 **Sec. 11. 36 MRSA §5203, sub-§1, as amended by PL 1987, c. 504,**
24 **§25, is repealed and the following enacted in its place:**

25

26 **1. Noncorporate. A tax is imposed, for each taxable year,**
27 **upon every resident individual of this State, equal to the amount**
28 **by which 3% of the excess of the taxpayer's alternative minimum**
29 **taxable income, as defined in the Code, Section 55(b), over the**
30 **taxpayer's Maine exemption amount, exceeds the taxpayer's**
31 **liability for all other taxes under this Part, except withholding**
32 **taxes, and that portion of the individual income tax arising from**
33 **modifications pursuant to section 5122, subsection 1. For**
34 **purposes of this subsection, "Maine exemption amount" means the**
35 **sum of the taxpayer's exemption amount, as defined in the Code,**
36 **Section 55(d) and, to the extent included in the taxpayer's**
37 **alternative minimum taxable income, the taxpayer's income from**
38 **obligations of the United States and railroad retirement**
39 **benefits. Additionally, a tax is imposed for each taxable year**
40 **on every nonresident individual with Maine source income equal to**
41 **the tax computed under this subsection, as if the nonresident**
42 **were a resident, and multiplied by the ratio of the nonresident's**
43 **Maine-source alternative minimum taxable income to the**
44 **nonresident's total alternative minimum taxable income.'**

45

46 Further amend the bill by inserting after section 12 the
47 following:

48

49 **'Sec. 13. 36 MRSA §5276-A, sub-§1, as repealed and replaced by**
50 **PL 1987, c. 402, Pt. A, §192, is amended to read:**

51

1 1. Generally. Any agency of the State, including the
2 University of Maine System or the Maine Vocational-Technical
3 Institute System, which is authorized to collect from any
4 individual or corporation a liquidated debt greater than \$25
5 shall notify in writing the State Tax Assessor and supply
6 information necessary to identify the debtor whose refund is
7 sought to be set off. The State Tax Assessor, upon any such
8 notification, shall assist the requesting agency by setting off
9 that debt, pursuant to rules promulgated by the State Tax
10 Assessor, against any refund to which that individual or
11 corporation is entitled under this Part. Liquidated child
12 support debts that the Department of Human Services has
13 contracted to collect, pursuant to Title 19, section 448-A or
14 495, subsection 2, shall be eligible, under the provisions of
15 this section, for setoff against any refund due the obligated
16 individual. The State Tax Assessor shall provide the creditor
17 agency with the name, address and social security number of each
18 debtor whose refund will be subject to offset.'

19
20 Further amend the bill by inserting at the end before the
21 statement of fact the following:

22 'Emergency clause. In view of the emergency cited in the
23 preamble, this Act shall take effect when approved.'

24
25 Further amend the bill by renumbering the sections to read
26 consecutively.

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STATEMENT OF FACT

29

30 This amendment:

31

32 1. Corrects a procedure for appointing members to a
33 regional planning commission;

34

35 2. Enables bond counsel to render an unqualified opinion as
36 to the issuance of tax increment financing bonds in
37 municipalities having more than one tax increment financing
38 district. This amendment confirms the State Development Office's
39 current interpretation and implementation of the law;

40

41 3. Deletes a provision which the State Development Office
42 believes is unnecessary in view of prior amendments to the tax
43 increment financing provisions;

44

45 4. Clarifies that municipal officers authorized to issue
46 bonds or notes under the Maine Revised Statutes, Title 30-A,
47 section 5257, may borrow money in anticipation of their sale.
48 This amendment confirms the State Development Office's current
49 interpretation;

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COMMITTEE AMENDMENT " A" to S.P. 124, L.D. 209

- 1 5. Deletes a repealed item from a statutory review
requirement and adds new sections to that review process;
- 3
- 5 6. Conforms the definition of "just value" for state
valuation purposes with the tax increment financing provisions as
amended by Public Law 1987, chapter 772;
- 7
- 9 7. Improves the procedure whereby leases are to be
terminated under the tree growth tax laws;
- 11 8. Makes a technical change in the language relating to
abatements;
- 13
- 15 9. Corrects a reference in the statutes;
- 17 10. Makes a technical change in the language relating to
the alternative minimum tax; and
- 19 11. Adds a Maine Vocational-Technical Institute System to
the list of agencies able to use debt set-off provisions.
- 21
- 23 In addition, the amendment adds an emergency preamble and an
emergency clause to the bill.

Reported by Senator Baldacci for the Committee on Taxation.
Reproduced and Distributed Pursuant to Senate Rule 12.
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